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MAJOR LEGISLATION OF THE CONGRESS

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Major Legislation of the Congress

Issue No. 4 **January 1986**

The **Major Legislation of the 99th Congress (MLC)** summarizes major legislative issues before Congress. Written by the analysts, specialists, and senior specialists of the Congressional Research Service, the summaries are for the use of Members of Congress, their staffs, and committee staffs.

Each **MLC** includes at the end of the text a Title Index (an alphabetical list of titles and corresponding **MLC** entry numbers) and a Legislation Index (bill, resolution, and public law numbers, and corresponding **MLC** entry numbers. Almost all of the entries in the **MLC** also note the CRS issue brief from which the entries usually derive.

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Major Legislation of the 99th Congress

AGRICULTURE AND FOOD

MLC-001

AGRICULTURE AND THE 99TH CONGRESS: OVERVIEW

...lawmakers complete major farm legislation...

OVERVIEW

The 99th Congress passed two significant farm measures in the waning days of its first session. Both were signed into law by President Reagan on Dec. 23, 1985. The first (P.L. 99-198), sent to the White House by lawmakers on Dec. 18, 1985, will guide the operation of the major Federal commodity price support programs through 1990; it also extends and modifies a number of other agricultural activities operated chiefly by the U.S. Department of Agriculture (USDA). The second (P.L. 99-205), which also cleared Congress on Dec. 18, 1985, will reorganize the faltering Farm Credit System (FCS), the source of about one-third of all agricultural lending.

The FCS problems were symptomatic of the continuing severe recession throughout agriculture in 1985. Many farmers had started the year with unmanageable debts and dim prospects for financing their spring plantings. These problems -- and congressional proposals to deal with them -- are expected to continue in 1986.

However, efforts to deal with the gaping Federal deficit are looming over lawmakers' deliberations on farm issues. The most significant action was enactment in late 1985 of the so-called Gramm-Rudmann-Hollings amendment to the Federal debt ceiling law. This amendment could subject Federal agriculture spending to two rounds of reductions in this calendar year and also could make it more difficult to pass new bills expanding aid to farmers, most policymakers agree.

The "farm problem" has challenged policymakers since the Great Depression. The efficient U.S. farmer often produces more than he can sell at home and overseas. Large surpluses loom over markets, depressing prices and incomes.

Barring a long stretch of bad weather, an unexpected rise in demand, or a drastic farm support policy shift, such surpluses are likely to continue for the next several years. Agriculture has become a victim of its own success -- the advances in science and management that have been boosting the rate of output are also causing wrenching structural changes in the farm sector. In short, fewer farmers are needed to feed the Nation's population and serve overseas customers.

A boom in exports during the inflationary 1970s, spurred in part by large Soviet grain purchases, and a devalued dollar, at first promised a renewal of farmers' long-term prosperity. Encouraged by Government and university experts, many borrowed heavily to invest in new equipment, land, and facilities. Soon, two out of every five acres were being harvested for export.

Exports, however, slumped after 1980 due to a variety of factors, including a worldwide recession, more aggressive competition for customers by other exporting nations, and a strong dollar (making U.S. products more expensive to foreign purchasers). Although net farm income, averaging just over $24 billion annually during the 1980s, was slightly higher than in the 1970s, it represented roughly half the 1970s averages when adjusted for inflation.

Analysts observe that financial troubles are not spread evenly across all producers; a number are still earning a healthy profit. Nevertheless, there is cause for concern -- in part because farmers are the cornerstone of the U.S. food and fiber industry, which accounts for a significant portion of the Gross National Product.

The traditional Government programs that have evolved since the 1930s -- everything from commodity price and income supports to subsidized credit -- have been unable to pull agriculture from its current recession, despite record high costs. Outlays for supports alone reached an unprecedented $18.9 billion in FY83 (not counting more than $9 billion in surplus USDA commodities farmers received for diverting acreage that year). They dropped to $7.3 billion in FY84 but climbed to nearly $18 billion in FY85, according to USDA.

FARM CREDIT

Up to a third of all family-sized commercial farmers in 1985 faced severe financial difficulty. The crisis, farm leaders maintained, extended beyond the farm to agricultural suppliers and private lenders, whose financial health is threatened when borrowers cannot repay loans. (Besides commercial lenders, farmers also borrow from the Farm Credit System (FCS) and the so-called lender of last resort, the Federal Farmers Home Administration (FmHA).)

Dissatisfied with the Administration's own farm debt adjustment plan announced in September 1984 (and modified in February 1985), many lawmakers pressed ahead with emergency legislation, which they said was needed to help many farmers obtain credit to plant their 1985 crops. The President, on March 6, vetoed a bill (H.R. 1096) funding African famine relief after farm credit provisions were added by the House and Senate. Congressional pressures apparently did have some impact on Administration policy, however: FmHA FY85 farm lending later reached record levels.

FCS lenders -- Federal Land Banks, Production Credit Associations, and the like -- have been among the hardest hit by the Nation's farm financial problem. FCS institutions have experienced increased loan losses, borrower complaints about their policies and procedures, and other problems in recent months.

Although privately owned by their borrowers, these institutions were initially capitalized by the Federal Government and operate under Federal charter. In September, Farm Credit Administration (FCA) officials publicly acknowledged severe financial problems in the System and suggested that some type of Federal rescue may be needed within the next 18 to 24 months. Congress responded with "fast track" legislation (P.L. 99-205) to restructure and reform the Farm Credit System and to strengthen the regulatory role of the FCA. Policymakers will be watching carefully whether the new law will bolster weak FCS lenders, ease investor concerns, and address some borrowers' repayment problems -- thus heading off the need for Federal funding for the System (the law itself provides no money).

A number of analysts observe that about two-thirds of the Nation's commercial producers remain in relatively good shape. Nevertheless, most congressional farm leaders maintain that financial problems are likely to spread unless farm prices and income improve significantly in the near future. This was a point of debate concerning the commodity titles of the omnibus farm bill that passed in December.

The omnibus bill contains a separate farm credit title that specifies FmHA farm and rural development loan levels for the next 3 years and modifies the agency's administration of current programs, among other things.

One recent FmHA development was USDA's guidelines for handling delinquent farm loans. About one-fourth of all FmHA borrowers are delinquent, and application of the guidelines will be a key congressional oversight concern. (For more information see IB84126 -- Farm Financial Situation and Credit Problems: Congressional Concerns; IB85025 -- Farmers Home Administration: Farm Credit Policies and Issues, and IB85198 -- Farm Credit System: Legislative Issues.)

COMMODITY PRICE SUPPORT PROGRAMS

USDA's Commodity Credit Corporation (CCC) is required by permanent law to support the production of about a dozen specified commodities, including milk, wheat, feed grains, sugar, cotton, and rice. Four chief tools are used for supporting commodity prices and incomes. They are (1) nonrecourse loans, which farmers can settle either in cash or by forfeiting their crops; (2) deficiency payments, or direct subsidies, in addition to loans that are based on pre-set target prices; (3) paid and unpaid acreage reduction programs; and (4) the farmer-owned reserve, providing both nonrecourse loans and storage payments for longer-term set-asides of surplus grains. (Dairy is supported through direct purchases of cheese, butter, and nonfat dry milk.)

Without a new farm bill in 1985, most of the programs would have expired or reverted to their permanent authorizations (chiefly under the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938). How the various commodity programs are mixed and apportioned every 4 or 5 years has to a large degree constituted Congress's plan for supporting agriculture.

Many of the farm bills that came before Congress were omnibus, extending and modifying most of the major titles in the 1981 law. They ranged from the "marketed-oriented" plans by Senate Agriculture Chairman Helms (S. 616) and the American Farm Bureau Federation (introduced as H.R. 1965 by Representative Emerson and S. 908 by Senator McConnell) to more stringent "supply control" approaches offered by Senator Harkin (S. 1083) and Representative Alexander (H.R. 2383). Other lawmakers introduced less comprehensive farm bills that nevertheless were wide-ranging or would make major changes in Federal support for specific commodities. The Administration's own plan (H.R. 1420, S. 501) for sharply reducing price supports was generally ignored by Congress.

Rather than taking any one omnibus approach, the Agriculture committees considered and selected individual provisions from the bills for inclusion in what became a hybrid measure.

Omnibus farm legislation with new commodity programs passed the House on Oct. 8, 1985, by a 282-141 vote and the Senate on Nov. 23, 1985, by a 61-28 vote. Conferees reached agreement on Dec. 14, 1985, on the measure that was ultimately signed by the President (P.L. 99-198). It contains the following significant changes from prior law (among others):

-- Nonrecourse loans for wheat, feed grains, soybeans, cotton, and rice will gradually be lowered to no more than 85% of average market prices (the actual formula varies by commodity, and some rates will have floors). Rates could be lowered by USDA more steeply in the first year to make U.S. commodities more price-competitive (the Secretary exercised this option in January 1986). The Secretary of Agriculture also is permitted (for rice, required) to use the so-called "marketing loan" option, which allows loan repayment at less than the original rate.

-- Current target prices are to be maintained through 1987 for wheat and feed grains and through 1986 for cotton and rice. After that, they can be scaled down gradually each year. The Secretary also is allowed to vary some target prices based on farm size or acreage reduced. The $50,000 annual limit is continued, except that it would not apply for the increased payments that resulted if USDA exercised its option to make steeper cuts in loan rates.

-- Acreage reduction authority for wheat, feed grains, cotton, and rice will continue, with combined mandatory or voluntary diversions (as a condition of price support eligibility) at up to 25% to 30% for wheat, 20% for feed grains, 25% for cotton, and 35% for rice (with additional set-aside authority at Secretarial discretion).

-- Dairy supports will be frozen at $11.60 until Jan. 1, 1987, when gradual reductions in the price are authorized to begin. In addition, the Secretary will be required to offer a "whole herd buyout" program under which farmers who bid successfully could receive payments to take entire herds out of dairy production; the program will be financed by an initial producer assessment of 40 cents per hundredweight.

-- The sugar, wool, and peanut programs will generally be extended without major changes; honey support loans will be reduced gradually.

When the full House debated its committee's bill in late September and early October, few significant changes were adopted. The House did strip from the measure a committee provision that would have allowed farmers to vote on whether to establish near-mandatory controls over wheat and feed grains production for domestic use. But floor attempts to authorize even more stringent production controls (if approved by farmers) failed, as did amendments to better target grain subsidies, rewrite the dairy title, and curtail the sugar, honey, peanut, and tobacco programs.

Much of the lengthy Senate floor debate highlighted the sharp differences between supporters of the Agriculture Committee's 4-year freeze in targets and those who wanted just a one-year freeze, with subsequent decreases to help control budget outlays. In the end, Senate Majority Leader Dole resorted to delicate parliamentary moves -- as well as concessions, including new subsidy structures for soybean, wheat, and sunflower producers -- to expedite passage of a bill. (The new soybean and sunflower subsidies were removed from the final bill by conferees.)

The new omnibus legislation also contains a number of other titles important to both farmers and nonfarmers. These titles renew and expand USDA's foreign aid and trade programs (see below); extend agricultural research and teaching activities; extend and modify the food stamp and domestic commodity assistance programs; authorize new generic promotion programs for beef, pork, and watermelons; and create several significant initiatives aimed at improving soil conservation (see below), among other things. (For more information on the farm bill in general, see IB85004 -- The 1985 Farm Bill: An Overview. For a comparison of the tentative House and Senate committee decisions, see IB85089 -- The 1985 Farm Bill: A Comparison of Selected Legislation.)

AGRICULTURAL TRADE

Following a decade of booming sales, the value of U.S. agricultural exports peaked in FY81 at $43.8 billion (export volume was 162.3 million metric tons, or mmt). Subsequent declines in both export value and volume ($29 billion and 120 mmt forecast for FY86) have prompted intense interest in why the declines have occurred and how they can be turned around. A number of factors have been identified -- the strong dollar, worldwide recession, the debt problems of importing nations, increased foreign production, intensified competition abroad as a result of trade and domestic farm policies of other exporting nations, and the domestic farm policies of this country.

While most policymakers and analysts agree on the list of reasons for the decline in export levels, there is wide disagreement over the relative weight to assign each factor. Some, including the Administration, have emphasized the deleterious effect of U.S. farm subsidy programs, particularly "high" loan rates, on exports. Consequently, their policy prescriptions have leaned heavily on revising domestic price support programs to increase the competitiveness of U.S. agricultural exports. Others have argued that the strong dollar (which makes U.S. exports more expensive to foreign purchasers) is the leading cause of declining exports, and therefore they have tended to focus more on monetary and fiscal policies. Still others have emphasized the domestic and trade policies of other nations, arguing for increased export credit, direct export subsidies, and other actions to directly counter intense competition for foreign markets.

During the first session of the 99th Congress, a number of agricultural trade bills were introduced that contained a variety of these approaches. Most proposals were cast with an eye on the growing Federal deficit, with policymakers searching for more effective, yet less costly, ways to boost export sales.

Congressional activity on agricultural exports last session was within the context of the farm bill. In addition to lowering price supports on major export commodities to make U.S. products more price-competitive in world markets, the farm bill also contains a comprehensive trade title designed to boost sagging export levels. Provisions agreed to basically continue current agricultural export credit and other promotion programs. However, Congress has increased its voice in how these programs are implemented by mandating certain programs and program funding levels. The trade title of the new agricultural legislation requires at least $5 billion annually in short-term (6 to 36 months) credit guarantees; sets a minimum of $500 million annually in FY86-88 and a maximum of $1 billion in FY89 for intermediate credit guarantees (3 to 10 years); mandates at least $325 million annually in FY86-88 in cash or surplus commodities for direct export credits to counter unfair foreign trading practices; and mandates the export sale of at least 150,000 tons of CCC dairy products annually. The bill also reauthorizes the export credit revolving fund; directs the USDA to test a barter program with at least two countries to obtain strategic materials; and requires the designation of a Presidential Special Assistant for Agriculture Trade and Aid.

These provisions contrast markedly with what the Administration had originally proposed for export programs, which would have continued the Secretary of Agriculture's general authority to conduct export programs under CCC charter. The only mandated program was $175 to $190 million in annual spending for export assistance in FY83-85. Critics of the Administration's proposal argued that it would not have adressed the major concerns of the farm community such as intermediate and long-term credit, direct credit, bonus export programs (export PIK), or other export subsidies.

The trade title of the new agricultural legislation also mandates an export payment-in-kind (PIK) program using $2 billion worth of surplus commodities over 3 years to counter unfair foreign trade practices and to make U.S. products more competitive. These monies must be used in equal amounts over 3 years, and at least 15% of the program must be devoted to meat and poultry product exports. The USDA had been operating such a program since mid-May 1985 in response to heavy congressional and farm community interest in an export PIK program. The USDA program had, however, come under considerable criticism because of implementation problems. A number of farm groups and congressional critics labeled it unwieldy and unworkable.

The legislation also dealt with the lengthy and contentious debate on cargo preference. At issue was the implementation and scope of the cargo preference law that required 50% of Government-assisted exports to be transported on U.S. ships. Maritime interests, bolstered by a favorable court ruling, had been attempting to have cargo preference applied to a number of agricultural export programs. Agricultural interests, citing the competitive disadvantage of increased transportation costs under cargo preference, were equally active in their attempts to limit cargo preference to food aid programs only. The 1985 agricultural legislation contains a compromise between the two groups -- it exempts commercial USDA export programs from cargo preference, but increases the requirement for food aid programs (P.L. 480 and Section 416) from 50% of shipments to 60% in calendar 1986 and 75% thereafter, with increased transportation costs to be paid by the Department of Transportation. (For further information, see IB85139 -- Cargo Preference and Agriculture: Current Issues.)

The use of export controls on agricultural products also received consideration during the first session of the 99th Congress as part of the reauthorization of the Export Administration Act (EAA). This legislation broadly addresses the President's authority to control all U.S. exports for reasons of national security, foreign policy, and/or short supply. The EAA was extensively debated during the 98th Congress, although not enacted. The legislation was taken up again early in 99th Congress and was signed into law (P.L. 99-64) on July 12, 1985.

While U.S. agricultural exports have been declining since the early 1980s, agricultural imports have been increasing -- from $15.9 billion in FY82 to $20 billion forecast for FY86. This increase has been fueled by the strong dollar, which makes some imported commodities less expensive for U.S. consumers. In addition, a number of agricultural imports have been unfairly subsidized by exporting countries, according to some agricultural interests. Producer pressure to protect U.S. agriculture from growing foreign competition has increased, especially in light of the problems that continue to plague that sector. Agricultural interests have filed a record number of petitions for import relief with the International Trade Commission (ITC) over the past few years. The Commission (and in certain cases, the USDA) has considered import relief measures for such commodities as pork and live hogs, wine, potatoes, frozen orange juice concentrate, mushrooms, sugar and tobacco.

Denials of import relief for some agricultural products by the Administration, in conjunction with a controversial decision by the ITC to grant relief from imported Canadian hogs, but not pork, have prompted a number of bills to provide agricultural producers increased protection from imports. They include legislation to label imported meat, to restrict casein (milk protein product) imports, to restrict unmanufactured tobacco imports, to restrict imports of tobacco grown or produced using chemicals prohibited in the United States, and to levy a surtax, triggered by economic injury, on fresh vegetable imports.

In addition to these agricultural-specific bills, a number of wide-ranging, generic trade bills have also been introduced that, among other provisions, would revise current U.S. trade laws that provide for import relief.

FOOD AID -- P.L. 480

Large agricultural commodity surpluses in the United States and widespread drought, famine, and starvation in sub-Saharan Africa during 1984-85 focused considerable attention on U.S. foreign food aid programs, especially the largest of these programs, the Food for Peace Program, also known as P.L. 480, the Agricultural Trade Development and Assistance Act of 1954. Authority for P.L. 480, contained in the Agriculture and Food Act of 1981, as amended, was renewed and revised in the Food Security Act of 1985.

During consideration of this legislation, debate focused on such issues as the size and cost of U.S. food aid programs; the U.S. response to food problems in sub-Saharan Africa; and the use of food aid for export market expansion, economic development, and foreign policy purposes.

Among other provisions, the foreign food aid title of the new agricultural legislation extends P.L. 480 through 1990; requires that at least 75% of donated shipments be processed, fortified, or bagged; and authorizes a new Food for Progress program that ties food aid to local agricultural policy reform and private sector development.

The widespread drought in sub-Saharan Africa that brought hunger to millions of people in 1984 and 1985 also prompted a number of bills last session to immediately upgrade the assistance given under P.L. 480. Many called for increasing the amount of donated food, streamlining P.L. 480's decisionmaking process to speed the delivery of food to where it is needed, providing additional forms of emergency aid such as medical supplies along with food aid, and increasing funding to defray the costs of internal transportation for donated commodities in the financially distressed receiving countries. Skeptics questioned the causes and nature of reported food shortages, suggesting that political and managerial difficulties in recipient countries were major contributors.

In FY85, Congress approved $1.35 billion for P.L. 480. In addition, Congress also ultimately passed an FY84 supplemental appropriation that provided an added $150 million for African food aid.

An FY85 supplemental appropriation for food donations to Africa also was passed by the 99th Congress and enacted into law (P.L. 99-10) on Apr. 4, 1985. This legislation provides additional appropriations for food assistance to Africa, including increased funding levels for food donations and for "international disaster assistance, monies earmarked for internal transportation, and monies reserved for an "Emergency Reserve for African Famine Relief." (For further information, see IB85085 -- The 1985 Farm Bill: P.L. 480 Reauthorization Issues; and IB85075 -- African Famine: The U.S. Response.)

CONSERVATION

Conservation of soil and water resources has been a farm policy issue for more than 50 years. The U.S. Department of Agriculture has been given responsibility for 26 programs to address conservation needs, whether ongoing ones or new problems.

Today's proponents of an enhanced soil conservation effort believe that currently high erosion rates are slowly destroying U.S. cropland and contributing to water quality problems. Most are seeking to better integrate conservation objectives with USDA commodity programs. The Administration, on the other hand, has called for significant reductions in the conservation budget, arguing that current programs have not always provided long-term benefits in light of their costs.

The 98th Congress considered but did not pass a number of bills that would have expanded Federal efforts to discourage farming on erosion-prone land. These measures re-emerged during the 99th Congress and were folded into the omnibus farm bill. One provision included in the new agricultural act is the so-called "sodbuster" proposal that prohibits many Federal farm benefits to those planting on fragile lands and failing to follow approved conservation plans. Another establishes a long-term acreage conservation reserve, offering farmers financial incentives to take erosion-prone lands out of production for multi-year periods. Some 40-45 million acres of fragile land could be brought into the reserve in coming years. Another provision expands the sodbuster concept to "swampbusters" since most wetland conversions are for farming. (Additional conservation provisions are also in the bill. For more information, see IB85016 -- The 1985 Farm Bill: Soil Conservation Issues.)

OTHER ISSUES

In 1986, the Commodity Futures Trading Commission (CFTC) is slated for its quadrennial reauthorization. The CFTC regulates the commodity futures industry; since nearly one-quarter of the 159 million contracts traded in 1985 were for agricultural commodities, the Commission's activities have an important albeit indirect impact upon farmers. Members are expected to pay special attention to a new marketing instrument -- options on futures contracts for agricultural commodities. Trading in agricultural options was resumed in a 1983 pilot program after having been banned for decades.

LEGISLATION

FARM CREDIT

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XIII reauthorizes and revises FmHA's farm and rural development program lending levels for FY86-FY88. The law also establishes a new 3-year, $490 million interest rate "buydown" program for FmHA guaranteed loans and spells out guidelines for disposing of farm properties acquired by FmHA through defaults, among other provisions. Introduced Apr. 17, 1985; referred to Committee on Agriculture. Amended and reported Sept. 13 (H.Rept. 99-271, Part 1). Passed House as amended on Oct. 8, 1985. Senate on Nov. 23, 1985, passed its own version of H.R. 2100 in lieu of the original bill (S. 1714, S.Rept. 99-145) reported Sept. 30, 1985, by Senate Agriculture Committee. Conference report (H.Rept. 99-447) filed Dec. 17 and agreed to by House Dec. 18, 1985. Signed into law Dec. 23, 1985.

P.L. 99-205, S. 1884
Farm Credit Amendments Act of 1985. Amends the Farm Credit Act of 1971 to restructure FCA and to expand the regulatory functions it exercises; to create a Farm Credit System Capital Corporation (FCSCC) to redistribute capital among FCS institutions to those lenders in need of financial assistance; and to purchase, restructure existing loans, and to sell FCS assets. Introduced Nov. 22, 1985; referred to Committee on Agriculture, Nutrition, and Forestry. By unanimous consent, the Senate discharged the committee from further consideration on Dec. 3. Passed Senate, amended, Dec. 3. Considered by House under suspension of rules Dec. 10. Passed House, amended, Dec. 10 (in lieu of companion measure H.R. 3792). Senate agreed to House amendment with a further amendment by voice vote Dec. 17; House agreed to Senate amendments by voice vote same date. Signed into law Dec. 23, 1985.

H.R. 1096 (Weiss)
Title II, the Emergency Farm Credit Assistance Act of 1985, (1) establishes $100 million for FmHA interest reduction payments to lenders who restructure troubled farm debts; (2) authorizes an additional $1.85 billion in operating and ownership loan guarantees in FY85 to implement the debt adjustment program; (3) encourages changes in banking regulatory procedures to guard against untimely farm foreclosures, among other things. Title III, the Advance Recourse Loan Act of 1985, allows USDA to advance 100% of the price support loan rate, up to $50,000, for half of a farmer's estimated production.

Title II introduced Feb. 25, 1985, and Title III introduced as amendment on Feb. 27, during Senate floor debate as amendments to S. 457, African famine relief bill. Senate incorporated S. 457, along with Title II and III amendments, into H.R. 1096, House bill for famine relief. House agreed to Senate changes and cleared the measure for President on Mar. 5. President vetoed H.R. 1096 Mar. 6, 1985.

COMMODITY PRICE SUPPORT PROGRAMS

P.L. 99-198, H.R. 2100
Titles I-IX extend and modify price and income support programs for dairy, wheat, feed grains, soybeans, wool, sugar, peanuts, and cotton. Other titles address credit, soil conservation, agricultural marketing, domestic food asistance, agricultural research and extension, and other farm and food issues. For legislative history, see Credit, P.L. 99-198, above.

S. 616 (Helms)
Extends and modifies price and income support programs for major agricultural commodities; includes separate titles dealing with food aid and agricultural exports, domestic food assistance, soil conservation, farm credit, agricultural marketing, agricultural research and extension, and other issues. Introduced Mar. 7, 1985; referred to Committee on Agriculture. Reported as an original bill (S. 1714) on Sept. 30, 1985 (S.Rept. 99-145). For subsequent legislative history, see Farm Credit, P.L. 99-198, above.

S. 1714 (Helms)
See S. 616 and P.L. 99-198 above.

AGRICULTURAL TRADE

P.L. 99-64, H.R. 1786/S. 883
Export Administration Act Amendments of 1985. H.R. 1786 replaced H.R. 28 (Roth) in Foreign Affairs Committee markup Mar. 28, 1985. Committee marked up and reported measure Apr. 3, 1985. Passed House and was incorporated into S. 883, as an amendment Apr. 16, 1985. S. 883, *extending* the EAA of 1979, was introduced, considered, and passed without amendment by the Senate Apr. 3, 1985. Senate disagreed to House amendments of S. 883 by voice vote and appointed conferees May 3. House insisted on its amend-

BEST COPY AVAILABLE

ments by unanimous consent, agreed to conference, and appointed conferees June 20. Conference held, package agreed to June 25. Measure passed House and Senate June 27. Signed into law July 12, 1985.

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XI authorizes an export PIK program; mandates minimum funding levels for short and intermediate term export credit guarantees; and mandates that at least $325 million be spent annually in cash or in surplus commodities for direct export subsidies to counter unfair trading practices of other countries, among other provisions. For legislative history, see Credit, P.L. 99-198, above.

H.R. 1950 (Guarini)
Among other provisions, amends the Trade Act of 1974 to transfer from the President to the U.S. Trade Representative the authority for certain import relief actions. Introduced Apr. 3, 1985; referred to Committee on Energy and Commerce. Subcommittee on Commerce, Transportation, and Tourism held hearings June 26, 1985.

H.R. 3328 (Bedell)/S. 1629 (Grassley)
Amends the Tariff Act of 1930 to treat processed agricultural products as like products for the purposes of antidumping and countervailing duty investigations. H.R. 3328 introduced Sept. 18, 1985; referred to Committee on Ways and Means. S. 1629 introduced Sept. 11, 1985; referred to Committee on Finance.

H.R. 3777 (Dingell)
Among other provisions, revises the remedies available to U.S. producers regarding unfair and injurious foreign trade practices by clarifying "threat of injury" and "foreign market value," expanding coverage of upstream subsidies, addressing diversionary dumping, and other provisions. Introduced Nov. 19, 1985; referred to Committee on Energy and Commerce. Marked up and ordered reported Nov. 21, 1985.

S. 1860 (Danforth)
Amends the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, and to promote U.S. exports, among other provisions. Introduced Nov. 20, 1985; referred to Committee on Finance.

FOOD AID -- P.L. 480

P.L. 99-10, H.R. 1239
Provides supplemental appropriations for FY85 for Title II of P.L. 480 for additional food donations to Africa, as well as increased funding for international disaster assistance; earmarks monies for inland transportation; and reserves monies for an "Emergency Reserve for African Famine Relief," among other provisions. Reported out of the House Committee on Appropriations as an original measure Feb. 21, 1985 (H.Rept. 99-2). Passed House by voice vote Feb. 28, 1985. Reported out of Senate Committee on Appropriations with amendments, Mar. 5, 1985 (S.Rept. 99-8). Passed Senate with amendments, 98-1, Mar. 20, 1985. House disagreed to Senate amendments by unanimous consent, Mar. 27, 1985. Conference held; House and Senate agreed to conference report Apr. 2, 1985. Signed into law Apr. 4, 1985.

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XI reauthorizes P.L. 480 (Food for Peace) through 1990; sets new minimum levels for overseas donations; and establishes a new "Food for Progress" program, among other provisions. For legislative history, see Credit, P.L. 99-198.

CONSERVATION

P.L. 99-198, H.R. 2100
Conservation title (Title XII) of omnibus bill bans most farm program benefits to farmers who plant on highly erodible land; another section establishes long-term conservation reserve offering rental payments, cost-sharing, and technical assistance to farmers who place erodible land in less intensive uses. Introduced as H.R. 2108 by Representative Ed Jones on Apr. 18, 1985; referred to House Agriculture Committee. Panel's Subcommittee on Conservation, Credit, and Rural Development on Apr. 23 approved bill, with modifications. Full committee incorporated S. 2108, with amendments, into omnibus farm bill (H.R. 2100). See Credit section, P.L. 99-198 (above) for subsequent legislative actions.

S. 616 (Helms)
Conservation title of omnibus bill, as modified by committee, contains provisions similar (but not identical) to those in H.R. 2100. S. 616 introduced Mar. 7, 1985; referred to Committee on Agriculture. Provisions approved by committee in July. Bill reported as original measure (S. 1714, S.Rept. 99-145) on Sept. 30, 1985. See Credit section, P.L. 99-198 (above) for subsequent legislative actions.

Geoffrey Becker; Penelope Cate

MLC-002

FOOD SAFETY POLICY: SCIENTIFIC AND REGULATORY ISSUES

...moratorium extended on proposed saccharin ban...

On several occasions in the past 30 years Congress has considered the overhaul and update of U.S. food safety laws and regulations. While early in this century the lack of sanitation standards provoked Federal establishment of food safety regulations, recent attention has focused on the health effects of chronic consumption of certain food constituents. This change in focus stems from an increased concern about changes in the food supply, including the widespread use of chemical preservatives and coloring agents, the use of growth-stimulating drugs in food-producing animals, the large-scale application of pesticides and the resultant residues, and other environmental contaminants in food commodities. Technological advances have enabled scientists to measure quantities of chemicals in foods that were previously undetectable.

Approximately 1,100 food additives and 40 color additives are regulated for direct addition to food under requirements of the Federal Food, Drug and Cosmetics Act, as amended. The safety and anti-cancer clauses in the Act require FDA to ban from commerce any food or color additive or animal drug found to cause cancer in animals or humans or to be otherwise harmful to health. However, the law permits small amounts of certain classes of contaminants to exist in food, if the substances are unavoidable or necessary in the production of food. Inconsistencies in the law, scientific advances, scientific uncertainty and societal pressure to allow the continued use of substances that would otherwise be banned under current statutory and regulatory language have been arguments for the reevaluation of the existing food safety laws.

The controversy surrounding the regulation of the food additive, saccharin, has highlighted some of the problems that exist in applying the provisions of the current food safety statutes. In April 1977 FDA issued a detailed plan to end the use of the artificial sweetener, saccharin, as a general purpose food additive following the determination that the compound was a carcinogen. Because of the popularity of artificially sweetened products, and because saccharin was the only approved low calorie sweetener, the proposed ban spawned a public outcry. In November 1977 the Saccharin Study and Labeling Act was signed into law. This Act provided for an 18-month moratorium on the proposed ban, pending further study of saccharin's carcinogenicity. In 1979, 1981, 1983, and 1985 Congress renewed the expiring moratorium on the saccharin ban. The saccharin moratorium is scheduled to elapse May 1, 1987.

A key reason the saccharin moratorium has continued to be extended has been the lack of an approved substitute sweetener. Since 1981, however, FDA has approved the use of another artificial sweetener, aspartame, in a variety of dietetic foods and carbonated beverages. Petitions for additional uses have already been filed. Many food manufacturers do not consider aspartame a substitute for saccharin because it has more limited uses. However, the approval of aspartame could influence congressional decisions on saccharin in the future.

During the 97th Congress the Food Safety Amendments of 1981 were introduced in both the House and Senate. This legislation would have amended provisions related to food safety in the FD&C Act, the Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act. No formal action on this legislation was taken by the 97th Congress. In June 1983 the Senate Committee on Labor and Human Resources held three days of hearings on food safety. In October 1983 the Food Safety Modernization Act of 1983 (S. 1938/ H.R. 4121) was introduced in both the House and Senate. However, no action was taken on the legislation by the 98th Congress. No similar legislation has been introduced in the 99th Congress. [See CRS issue briefs IB85119 -- Artifical Sweeteners; and IB83158 -- Food Safety Policy: Scientific and Regulatory Issues.]

LEGISLATION

P.L. 99-46, S. 484

Amends the Saccharin Study and Labeling Act to extend to May 1, 1987, the period during which the Secretary of Health and Human Services may not take certain actions to restrict the continued use of saccharin or of any food, drug, or cosmetic containing saccharin. Introduced Feb. 2, 1985. Signed into law on May 25, 1985.

Donna V. Porter and Sarah E. Taylor
IB83158

BUDGET AND GOVERNMENT SPENDING

MLC-003

APPROPRIATIONS -- FY85 AND FY86

...continuing resolution covers seven appropriation bills...

More than half of the new budget authority made available to Federal agencies is provided in 13 annual appropriations acts (the remaining budget authority being provided by permanent appropriations in existing law or other funding devices). In the first session of the 99th Congress, six annual appropriations were signed into law, while the remaining seven were funded by a full-year continuing resolution (H.J.Res. 465, P.L. 99-190). Pending enactment of this full-year measure on Dec. 20, 1985, three short term continuing resolutions were enacted to prevent a lapse in appropriations after the start of the fiscal year on Oct. 1.

In the first session of the 99th Congress three supplemental appropriations measures for FY85 were also signed into law: (1) H.R. 1239, appropriating urgent supplemental funds for emergency famine relief and recovery in Africa, became P.L. 99-10 on Apr. 4, 1985; (2) H.J.Res. 342, providing urgent supplemental appropriations for agriculture, became P.L. 99-71 on July 24, 1985; and (3) H.R. 2577, providing general supplemental appropriations for FY., became P.L. 99-88 on Aug. 15, 1985.

Earlier in the session, Congress enacted a joint resolution approving the obligation and availability of prior year unobligated balances of appropriations for the procurement of additional MX missiles. The measure was signed into law on Apr. 4, 1985 (H.J.Res. 181, P.L. 99-17). Funds for additional MX missiles had been included in the Continuing Appropriation Act for FY85 (P.L. 98-473). However, the Act also stipulated, among other requirements, that the additional funds could become available only upon the later enactment of a joint resolution of approval.

On Jan. 21, 1986, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the Comptroller General submitted a report to the President specifying uniform percentages by which all non-exempt appropriation accounts must be reduced to effect $11.7 billion in savings required by the Act for FY86. The President's order implementing these reductions must be issued Feb. 1, and becomes final on Mar. 1, 1986. Under the Comptroller General's report, with which the President must comply, FY86 non-defense appropriation accounts must be reduced 4.3%, and defense accounts reduced 4.9% to effect the necessary savings.

LEGISLATION

Agriculture

H.R. 3037 (Whitten)
Provides budget authority for the Department of Agriculture, rural development, and related agencies for FY86. Introduced July 18, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $40.5 billion in budget authority.

Commerce

P.L. 99-180, H.R. 2965
Provides $11.9 billion in budget authority for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for FY86. Introduced July 11, 1985. Signed into law Dec. 13, 1985.

Defense

H.R. 3629 (Addabbo)
Provides budget authority for the Department of Defense for FY86. Introduced Oct. 24, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $281.2 billion in budget authority.

District of Columbia

H.R. 3067 (Dixon)
Provides budget authority for the government of the District of Columbia for Fy86. Introduced July 24, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $546.8 million in budget authority.

Energy and Water

P.L. 99-141, H.R. 2959
Provides $15.3 billion in budget authority for energy and water development programs for FY86. Introduced July 10, 1985. Signed into law Nov. 1, 1985.

Foreign Assistance

H.R. 3228 (Obey)
Provides budget authority for foreign assistance programs for FY86. Introduced Aug. 1, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $15 billion in budget authority.

Housing and Urban Development

P.L. 99-160, H.R. 3038
Provides $57.3 billion in budget authority for the Department of Housing and Urban Development and independent agencies for FY86. Introduced July 18, 1985. Signed into law Nov. 25, 1985.

Interior

H.R. 3011 (Yates)
Provides budget authority for the Department of Interior and related agencies for FY86. Introduced July 16, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $1.2 billion in budget authority.

Labor/HHS/Education

P.L. 99-178, H.R. 3424
Provides $94.9 billion in budget authority for the Departments of Labor, Health and Human Services, and Education for FY86. Introduced Sept. 26, 1985. Signed into law Dec. 12, 1985.

Legislative Branch

P.L. 99-151, H.R. 2942
Provides $1.6 billion in budget authority for the Legislative Branch for FY86. Introduced July 10, 1985. Signed into law Nov. 13, 1985.

Military Construction

P.L. 99-173, H.R. 3327
Provides $8.5 billion in budget authority for military construction. Introduced Sept. 18, 1985. Signed into law Dec. 10, 1985.

Transportation

H.R. 3244 (Lehman, W.)
Provides budget authority for the Department of Transportation and related agencies for FY86. Introduced Sept. 5, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $10.4 billion in budget authority.

Treasury

H.R. 3036 (Roybal)

Provides budget authority for the Department of Treasury, Postal Service, Executive Office of the President, and certain independent agencies for FY86. Introduced July 18, 1985. Congress approved H.R. 3036, Nov. 7, 1985. President vetoed the bill on Nov. 15, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $13 billion in budget authority.

Edward M. Davis

MLC-004

THE CONGRESSIONAL BUDGET PROCESS

...legislation to change the Budget Act...

The Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344) created a procedural framework enabling Congress to coordinate budgetary legislation and shape broad fiscal policy. The Budget Act established a budget process centered on the adoption of two concurrent resolutions which set the appropriate levels of spending, revenues, and the public debt. A timetable was set in place for the consideration of budget resolutions, appropriations bills, and other budgetary legislation, and the fiscal year was moved back from July 1 to October 1 to facilitate the timely enactment of all budgetary measures. In addition, procedures were devised, including the reconciliation process, by which Congress could enforce budgetary decisions agreed to in budget resolutions.

Until recently, significant changes in Budget Act procedures occurred mainly in ad hoc fashion. (Since 1982, for example, Congress has adopted only one budget resolution each year. Reconciliation, a procedure intended to be used in the second budget resolution, has in recent years shifted to the first.)

However, on Dec. 12, 1985, the President approved the Balanced Budget and Emergency Deficit Control Act of 1985 (H.J.Res. 372, P.L. 99-177). The Act, added as an amendment to legislation increasing the public debt limit, establishes a procedure to eliminate Federal deficits by fiscal year 1991 and makes a number of changes in the 1974 Budget Act.

The new balanced budget law, known as the Gramm-Rudman-Hollings Act, sets maximum deficit amounts for each fiscal year, beginning with FY86 (certain special procedures and an accelerated timetable are provided for FY86). Each year, Congressional Budget Office and Office of Management and Budget issue a joint report to the Comptroller General which forecasts economic performance, projects the Federal deficit for the upcoming fiscal year, and calculates uniform percentages by which spending must be reduced to eliminate any deficit in excess of the maximum deficit amount. Any differences between CBO and OMB are averaged. The Comptroller General then issues a report to the President and the Congress based on the CBO/OMB joint report. Should the Comptroller General's report project a deficit exceeding the maximum specified for a fiscal year, the President must issue a sequestration order reducing spending by the amounts and percentages specified in the report. A number of programs, including Social Security, are exempt from sequestration, while others are considered under special procedures. The deficit control procedures may be suspended if a recession has occurred or is forecast.

Gramm-Rudman-Hollings also makes a number of changes in the 1974 Congressional Budget and Impoundment Control Act. Many of these changes derived from changes proposed by the 98th Congress House Rules Committee Task Force on the Budget Process (Beilenson Task Force, see H.Rept. 99-1152, Part I). Thus, in addition to codifying a number of recent ad hoc changes in the budget process (e.g., eliminating the requirement for a second budget resolution, including totals for credit authority in the budget resolution, and providing for reconciliation in the Spring), Gramm-Rudman-Hollings accelerates the budget process timetable, provides that off-budget spending (except for Social Security) be included in budget totals, strengthens the enforcement of budget resolutions, and other matters.

Legislation proposing a biennial budget has been introduced again in the 99th Congress. Generally, biennial budget proposals would establish a 2-year fiscal period for congressional action on budgetary legislation. Measures introduced in the 99th Congress proposing a biennial budget include H.R. 382 (Panetta), H.R. 748 (Hutto), and S. 20 (Roth).

A Senate proposal to establish a select committee on the 2-year budget, a product of the 98th Congress Select Committee to Study the Senate Committee System (Quayle Committee), was considered twice during the first session of the 99th Congress. On May 17, 1985, the Senate passed S.Res. 159, providing for creation of the 2-year budget study committee, but vitiated passage of the resolution on May 20. On July 31, 1985, an amendment was offered in the Senate to the legislative branch appropriations bill for FY86 again proposing a study committee on the 2-year budget, but the amendment was later withdrawn.

LEGISLATION

P.L. 99-177, H.J.Res. 372

Provides for an increase in the statutory limit on the public debt, and includes the Balanced Budget and Emergency Deficit Control Act of 1985. Introduced Aug. 1, 1985. Signed into law Dec. 12, 1985.

H.R. 382 (Panetta)
Amends the Congressional Budget Act of 1974 to provide for a 2-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes. Introduced Jan. 3, 1985; referred jointly to Committees on Rules and Government Operations.

H.R. 748 (Hutto et al.)
Amends the Congressional Budget Act of 1974 to provide for a 2-year (bienneal) budgeting cycle, and for other other purposes. Introduced Jan. 28, 1985; referred to the Committees on Rules and Government Operations.

S. 20 (Roth)
Provides for a 2-year budget process, and other purposes. Introduced Jan. 3, 1985; referred jointly to Committees on Budget and Governmental Affairs.

S.Res. 31 (Quayle)
To improve the operation of the commitee system of the Senate, and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Rules and Administration.

S.Res. 159 (Mathias)
Provides for the creation of a Select Committee on the 2-year Budget. Reported May 9, 1985 (S.Rept. 99-45); passed Senate May 17, 1985; passage vitiated, ordered returned to the calendar May 20, 1985.

Edward M. Davis

MLC-005

THE FEDERAL BUDGET FOR FISCAL YEAR 1986

...Congress unable to agree on budget reconciliation...

The President's FY86 budget was presented in early February 1985. Once again the budget called for increases in defense spending, large cuts in domestic spending and continuing large deficits. The proposals were unfavorably received in both the House and the Senate.

The Republican-led Senate began work on the congressional budget before the Democratic-led House. In mid-March the Senate Budget Committee accepted a budget proposal reducing spending by an estimated $55 billion in FY86 and by $297 billion over the next 3 years (FY86-88). The legislation, S.Con.Res. 32, included a one-year freeze on the Social Security cost of living adjustment (COLA) and held defense authority increases to the rate of inflation.

The Republican leadership of the Senate negotiated with the White House in an attempt to find some budget plan that would be acceptable to both the President and the Senate Republicans. A compromise was reached in early April that called for a 2% increase in the Social Security COLA for each of the 3 years and for 3% real growth in defense authority.

The full Senate debated the legislation in late April and almost immediately rejected some of the provisions of the White House-Senate Republican compromise. On May 9, 1985, the full Senate, with Vice-President Bush casting a tie-breaking vote, adopted S.Con.Res. 32, setting targets for the FY86 Federal budget. The resolution would hold defense spending to the rate of inflation and would eliminate most cost-of-living adjustments for FY86, including the COLA for Social Security.

The House followed shortly with its own budget package. The House Budget Committee reported a budget resolution on May 16, 1985. The legislation, like the Senate's, claimed deficit reductions of $56 billion in FY86 but smaller reductions for fiscal years 1987 and 1988. The House resolution would allow no growth in defense spending and restored most COLAs, including the one for Social Security.

The House-Senate conference on the budget resolution began in June and lasted until the congressional summer break in August. Several times during the period the conference completely broke down with little sign of progress. In the week before the August recess the conferees were able to agree on a substitute compromise budget resolution that both Houses adopted on Aug. 1, 1985. The resolution (S.Con.Res. 32) claimed $57 billion in budgetary savings for FY86, full cost of living adjustments for Federal pension programs (which include Social Security), and an inflation adjustment for defense authorizations. Later, the Congressional Budget Office reestimated the budgetary savings from the budget resolution at $37 billion.

Action to implement the necessary changes continued through the fall. Congress adopted numerous regular appropriation bills and a sequence of continuing appropriation bills to fund Government activities for FY86.

The House and Senate were unable to agree on a budget reconciliation bill (H.R. 3128) before recessing in late December 1985. This legislation is necessary to achieve the budgetary savings required by the budget resolution. Work on the bill is expected to continue in the new year.

Congress did adopt P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (also known as Gramm-Rudman-Hollings) in late December. This law requires stepped reductions in the Federal deficit between FY86 and FY91, leading to a balanced budget in FY91. The legislation will lead to automatic spending reductions in non-exempt programs if Congress does not meet specified deficit targets by certain dates each year. For FY86 almost $12 billion in additional spending reductions are currently expected by Mar. 1, 1986.

January 1986

LEGISLATION

P.L. 99-177, H.J.Res. 372
Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). Forces deficit reductions over the next 5 years. Signed into law Dec. 12, 1985.

P.L. 99-179, H.J.Res. 476
Furthering continuing resolution on appropriations. Funds those activities of the Government not covered by the currently enacted 6 (out of 13) regular appropriation bills. Signed into law Dec. 13, 1985.

H.R. 3128 (Rostenkowski)
Consolidated Omnibus Budget Reconciliation Act of 1985. Makes the required spending reductions as called for in the FY86 budget resolution. Introduced July 31, 1985; referred to more than one committee. Considered by Committee on Education and Labor and marked up Sept. 11, 1985. Reported, amended, September 11 (H.Rept. 99-241, Part II). Considered by Committee on Judiciary and marked up Sept. 10. Reported, amended, September 11 (H.Rept. 99-241, Part III). Reported by Committee on Ways and Means July 31, 1985 (H.Rept. 99-241, Part I). Passed House, amended, Oct. 31, 1985. Referred to Senate Committee on Finance Nov. 7, 1985. Reported, amended, Nov. 14, 1985. Passed Senate in lieu of S. 1730 November 14. Conference report filed in House Dec. 19, 1985. Senate agreed to conference report December 19.

H.Con.Res. 152 (Gray)
House-adopted version of the 1st budget resolution for FY86. Substituted for the text of S.Con.Res. 32. Adopted May 23, 1985.

S.Con.Res. 32 (Domenici)
Congressionally adopted 1st concurrent budget resolution for FY86 (Aug. 1, 1985). Originally adopted as the Senate version on May 9-10, 1985. Substituting the text of H.Con.Res. 152 for the text of S.Con.Res. 32, the House adopted their version of the 1st budget resolution on May 23, 1985. After further modifications it was adopted by Congress on Aug. 1, 1985.

Philip D. Winters
IB85124

BUSINESS, INDUSTRY, AND CONSUMER AFFAIRS

MLC-006

ADVERTISING OF ALCOHOLIC BEVERAGES IN THE BROADCAST MEDIA

...possible adverse effects of advertising?...

Television advertising of beer and wine stands accused of contributing to problems associated with alcoholism and alcohol abuse. In particular, it is alleged that the exposure of the Nation's youth during their formative years to thousands of commercials glamorizing drinking causes many, who otherwise would choose to abstain, to drink. Further, it is claimed, this long-term exposure to such ads causes many to drink more -- in frequency and quantity consumed -- than would otherwise be the case.

Focusing on these allegations, an eclectic coalition of groups is lobbying Congress to enact legislation that would either ban all broadcast advertising (radio, television, and cable) of alcoholic beverages or require broadcasters to provide equal time for public service announcements and "counteradvertising."

Those who oppose a ban argue: no link has been established between advertising and alcohol-related problems; advertisers in the alcoholic beverage market merely compete for shares of that market; and, there should be no restrictions imposed on truthful advertising of legal products.

LEGISLATION

H.R. 1901 (Nielson)
Provides for the Bureau of Alcohol, Tobacco, and Firearms to conduct a study of alcoholic beverage advertising and promotion, and to prepare and transmit to Congress within one year a report on its findings. More specifically, the bill directs BATF to (1) examine the extent to which such advertising encourages consumption of alcohol, particularly by youth and by problem drinkers; (2) examine other promotional practices which encourage consumption of alcohol (whether or not conducted in connection with such advertising); (3) examine the extent to which such advertising and other promotional practices are subject to private industry self-regulation, and, if so, the effectiveness of such regulation; and (4) examine the extent to which other forms of public information may neutralize or reduce any adverse effects of such advertsing and promotion. Introduced Apr. 2, 1985; referred to Committee on Energy and Commerce.

H.R. 2526 (Seiberling et al.)
Fairness in Alcohol Advertising Act of 1985. Amends the Communications Act of 1934 to provide equivalent broadcasting time in order to respond to alcohol beverage adver-

tisements. More specifically: (1) a radio or television licensee or cable operator may not broadcast or deliver ads for alcoholic beverages unless equivalent time is provided; (2) equivalent time means equal duration to that used for the beverage ad, during a period when audience size and composition are approximately equivalent; (3) the equivalent time must be devoted to delivering messages relating to the adverse effects on individuals and the public attributable to alcoholic beverage consumption and abuse; (4) exempted are situations in which alcohol beverage sponsors underwrite programming when only the company or institutional logogram is used without any commercial announcement. Introduced May 15, 1985; referred to Committee on Energy and Commerce. Subcommittee hearings held May 21.

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MLC-007

INDUSTRIAL INNOVATION: THE DEBATE OVER GOVERNMENT POLICY

...a major mechanism to increase U.S. productivity...

Technological innovation, the dynamic process by which industry generates new and improved goods and services, involves idea generation, research, development, commercialization, and diffusion of the innovation throughout the economy. Utilization of new technologies and processes is the basis for increased productivity, generally leading to economic growth.

In the international arena, certain nations, most notably Japan and West Germany, have made substantial gains on the U.S. position regarding productivity levels, balance of trade in R&D-intensive products, and research and development as a percentage of Gross National Product. In this context, innovation is a major mechanism to increase U.S. productivity, to expand the number of jobs available, and to improve the country's balance of payments. Economic growth is stimulated through the utilization of new processes and the manufacture of new products. Such innovation also contributes to the resolution of national problems which are amenable to technological solutions.

Several significant activities have served as a basis for current congressional efforts concerning industrial innovation. In 1979, former President Carter transmitted a message to Congress outlining various initiatives to retain the United States' "role as the world leader in industrial innovation." The following year, the Carter Administration announced an Economic Revitalization Program focusing on economic and tax proposals which were absent from the earlier innovation initiatives. The passage of the Stevenson-Wydler Technology Innovation Act (P.L. 96-480) provided the legislative foundation for many of the Carter initiatives as well as some additional programs.

The major legislative efforts in the 97th Congress involved tax incentives to encourage research and development in the private sector and the passage of the Small Business Innovation Development Act (P.L. 97-217) designed to foster the development of innovative small companies. The Economic Recovery Tax Act of 1981 (P.L. 97-34) provides tax credits for incremental increases in qualified research expenditures and for portions of payments to universities to perform basic research. The 1981 Act also provides an increased charitable deduction for donations of new equipment by a manufacturer to an institution of higher education. This equipment must be used for research or research training for physical or biological sciences within the United States. (These provisions are set to expire in 1986.)

The emphasis in the 98th Congress was on legislation that would encourage improvements in math, science, and engineering education at the university and secondary school level (P.L. 98-377), legislation which would, in effect, exempt joint research and development ventures from Federal antitrust laws (P.L. 98-462), and on changes in the patent laws which should encourage the transfer of technologies from the Federal laboratories to the private sector where they can be commercialized.

Innovation-related issues the 99th Congress is addressing involve the tax credit for research and development mandated by Title II of the Economic Recovery Tax Act, P.L. 97-34, which expires at the end of 1985, and the reauthorization of portions of the Stevenson-Wydler Technology Innovation Act, P.L. 96-480. Proposed legislation would extend the R&D tax credit, make it permanent, and/or alter the definition of what is considered qualified research for the credit. To date, both the Senate and the House have held hearings on reauthorizations of the requisite sections of the Stevenson-Wydler Technology Innovation Act (including the Office of Productivity, Technology, and Innovation at the Department of Commerce) and on potential changes to the law to further encourage increased technology transfer from Federal laboratories to the private sector. In conjunction with these hearings, Congress has explored the issue of permitting all relevant Federal agencies to enter into cooperative R&D agreements with private industry.

LEGISLATION

P.L. 99-73, H.R. 1617

National Bureau of Standards Authorization Act. Authorizes appropriations to the Secretary of Commerce for (1) the National Bureau of Standards; (2) the Office of Productivity, Technology, and Innovation; and (3) patent licensing activities of the National Technical Information Service. Introduced Mar. 20, 1985; referred to Science and Technology Committee. Reported, amended, to House Apr. 16, 1985; passed House, amended, Apr. 18. Senate struck all after the enacting clause and substituted S. 796. Passed Senate, with amendment, Apr. 23. Conference report (H.Rept. 99-187) agreed to June 13, 1985. Signed into law July 29, 1985.

H.R. 1572 (Lundine et al.)
Federal Science and Technology Transfer Act of 1985. Amends the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research and development agreements, changing patent regulations, establishing a Federal Laboratory Consortium, and for other purposes. Introduced Mar. 19, 1985; referred to Committee on Science and Technology. Hearings held May 21 and 22, 1985. [For further action see H.R. 3773.]

H.R. 3773 (Fuqua et al.)
Federal Technology Transfer Act of 1985. Amends the Stevenson-Wydler Technology Innovation Act of 1980 by authorizing Government-owned Government-operated laboratories to enter into cooperative research agreements, establishes a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, mandates a cash awards program to recognize achievements by Federal laboratory scientific, engineering, and technical personnel, and for other purposes. Introduced Nov. 18, 1985, in lieu of H.R. 1572; referred to Committee on Science and Technology. Reported to House, amended, Dec. 5, 1985. Passed House, amended, Dec. 9. Referred to Senate Committee on Commerce, Science and Transportation Dec. 11, 1985.

S. 65 (Dole et al.)/H.R. 695 (Michel et al.)
Federal Laboratory Technology Utilization Act of 1985. Improves the transfer of technology from Government laboratories to the private sector through the use of cooperative research and development arrangements and changes in patent regulations. S. 65 introduced Jan. 3, 1985; referred to Senate Committee on the Judiciary. H.R. 695 introduced Jan. 24, 1985; referred to House Committees on the Judiciary and on Science and Technology. House Science and Technology Committee held hearings May 21 and 22, 1986. [For further action see H.R. 3773.]

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CIVIL RIGHTS AND LIBERTIES

MLC-008

ABORTION: JUDICIAL AND LEGISLATIVE CONTROL

...continued controversy but few changes...

In 1973 the U.S. Supreme Court held that the Constitution protects a woman's decision whether or not to terminate her pregnancy (*Roe* v. *Wade*, 410 U.S. 133) and that a State may not unduly burden the exercise of that fundamental right by regulations that prohibit or substantially limit access to the means of effectuating that decision (*Doe* v. *Bolton*, 410 U.S. 179). But rather than settling the issue, the Court's rulings have kindled heated debate and precipitated a variety of governmental actions at the national, State, and local levels designed either to nullify the rulings or hinder their effectuation. These governmental regulations have, in turn, spawned further litigation in which resulting judicial refinements in the law have been no more successful in dampening the controversy. Thus, if history is a guide, the Court's most recent pronouncements in *City of Akron* v. *Akron Center for Reproductive Health, Inc.*, *Planned Parenthood Association of Missouri* v. *Ashcroft*, and *Simopolous* v. *Virginia* (U.S. Surpreme Court, June 15, 1983), reaffirming the principles enunciated in *Wade* and *Bolton*, will not serve to settle the issue finally, but will focus pressures on national and local legislative bodies.

In 1985 the Court heard arguments in two cases (*Thornburgh* v. *American College of Obstetricians and Gynecologists* and *Diamond* v. *Charles*) arising from challenges to abortion laws in Illinois and Pennsylvania. Although the Justice Department filed a brief urging reversal of *Roe* v. *Wade*, commentary subsequent to the oral arguments in the cases suggests that it is unlikely that the constitutional right to an abortion will be altered by the Court.

The first session of the 99th Congress came to a close with members avoiding a protracted fight over abortion issues that had been raised during the preceding months. With the passage of the Continuing Resolution H.J.Res. 465 (P.L. 99-190) incorporating seven regular fiscal 1986 appropriations measures, most of the existing abortion restrictions have remained intact.

Controversial amendments to alter existing policy relating to abortion funding had been added earlier to several bills. Foremost among these was an amendment by Representative Jack Kemp barring the use of federal family planning funds to provide abortions or to refer pregnant women to clinics or hospitals that perform abortions. Existing regulations permit abortion counseling or referral, but no funds may be used to perform abortions. Kemp's amendment had stalled reauthorization of Title X of the Public Health Service Act, under which domestic family planning programs are funded. Backers of the amendment had intended to attach it to the continuing resolution but failed to do so in both the House and the Senate.

Another controversy arose concerning appropriations for the District of Columbia. As passed by the House H.R. 3067 contained an amendment offered by Representative Christopher Smith barring the use of local as well as federal funds to pay for abortions. The Senate, however, refused to accept this restriction and the provision was dropped in conference. Thus, as contained in the continuing resolution, abortion restrictions attached to District of Columbia appropriations remain unchanged.

The continuing resolution also contained restrictions on the use of overseas family planning funds by incorporating the so-called "Kemp amendment" which prohibits contributions to agencies which are involved in programs of coercive abortion or involuntary sterilization.

As in previous Congresses a variety of constitutional amendments relating to abortion were introduced, but none received significant action in either house during the first session of the 99th Congress.

LEGISLATION

H.R. 555 (Dornan)/S. 46 (Helms)

Prohibits Federal involvement in the performance of abortions, with the exception of the use of Federal funds for medical procedures required to prevent the death of the mother or the preborn/unborn child. H.R. 555 introduced Jan. 22, 1985; referred to more than one committee. S. 46 introduced Jan. 3, 1985. Placed on Senate calendar Jan. 3, 1985.

S. 504 (Hatch)

Amends the Civil Rights Act of 1964 to prohibit the use of Federal funds for abortions except when the life of the mother would be endangered if the fetus were carried to term. Introduced Feb. 25, 1985; referred to Committee on Governmental Affairs.

S. 522 (Hatch)

Amends the Civil Rights Act of 1964 to state that nothing should be construed in such Act to authorize the use of Federal financial assistance for abortions except where the life of the mother would be endangered if the fetus were carried to term. Introduced Feb. 27, 1985; referred to Committee on the Judiciary.

H.R. 608 (Schroeder)

Amends the Internal Revenue Code to establish the National Indigent Women's Abortion Trust Fund and to allow every individual to designate a portion of the individual's income tax payment for payment into such trust fund. Amends title XIX (Medicaid) of the Social Security Act to require State plans for medical assistance to provide for abortions in the same manner as other pregnancy-related services. Introduced Jan. 22, 1985; referred to Committees on Ways and Means, and on Energy and Commerce.

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MLC-009

CIVIL RIGHTS LEGISLATION: RESPONSES TO GROVE CITY COLLEGE V. BELL

...questions raised about coverage...

Questions about the coverage of Federal civil rights laws have been before Congress since February 1984, when the U.S. Supreme Court held in *Grove City College* v. *Bell* that the prohibition against sex discrimination in Title IX of the Education Amendments of 1972 applies only to the particular program or activity receiving Federal financial assistance, not institutions as a whole. The 98th Congress considered but did not enact legislation to overturn this interpretation for Title IX and for laws prohibiting discrimination by race, age, and handicapping condition that are thought to be affected as well.

In the 99th Congress, S. 272 (Dole)/ H.R. 2061 (Lungren) and H.R. 700 (Hawkins)/ S. 431 (Kennedy) raise questions about coverage again. Would these bills change coverage from what it had been prior to the Court's decision? Would they expand or restrict it? Should coverage occur through Federal student aid programs?

The House Committees on Education and Labor May 21, 1985, and on the Judiciary May 22, both adopted the same substitute version of H.R. 700, but amended it with different provisions pertaining to abortion before ordering the bill reported.

LEGISLATION

H.R. 700 (Hawkins)/S. 431 (Kennedy)

Civil Rights Restoration Act of 1985. Finds that the Supreme Court has unduly narrowed or cast doubt on the broad application of four civil rights statutes: Title IX of the Education Amendments of 1972, sec. 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964. States that legislative action is needed "to restore the prior consistent and longstanding executive branch interpretation and broad, institution-wide application of those laws as previously administered." Provides that for each of the four civil rights statutes the term "program or activity" means "all of the operations" of one of the following, when any part receives Federal financial assistance: a State or local government department or agency; a State or local government entity that distributes such assistance (as well as such department or agency and "each other entity" to which the assistance is extended); a university or a system of higher education; a local educational agency or other school system; a corporation, partnership, or other private organization; or "any other entity determined in a manner consistent with the coverage provided with respect to entities described (above)." Provides that termination of financial assistance shall be limited in its effects to the assistance which supports the noncompliance. H.R. 700 introduced Jan. 24, 1985; referred jointly to Committees on Education and Labor and on the Judiciary. S. 431 introduced Feb. 7, 1985; referred to Committee on Labor and Human Resources.

The House Committee on Education and Labor on May 21, 1985, adopted a substitute version of H.R. 700 (it then amended the new version twice before ordering it reported). The House Committee on the Judiciary on May 22, 1985 adopted the identical substitute version of H.R. 700 (it then amended the new version once and ordered it reported). The new version of H.R. 700 revises the list of institutions and organizations receiving Federal financial assistance the operations of which would constitute covered programs or activities: a State or local government department, agency, special purpose district, or other instrumentality; a State or local government entity that distributes such assistance (as well as such department or agency and "each other entity" to which the assistance is extended); a college, university, or other postsecondary institution, or a public system of higher education; a local educational agency, system of vocational education, or other school system; a corporation, partnership, sole proprietorship, or other private organization (the *entire* organization is covered if Federal assistance is extended to it "as a whole" or if it is "principally engaged in the business of providing education, health care, housing, social services, or parks and recreatione; *otherwise*, coverage is limited to "the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended") or any combination of the entities described above. As reported, clarifies that ultimate beneficiaries are excluded from coverage and that the religious exemption in Title IX pertains to the operations of an entity controlled by a religious organization if Title IX would not be consistent with the organization's religious tenets (the version ordered reported by the Committee on Education and Labor amends this provision to include operations of an entity "affiliated" with a religious organization when the latter's religious tenets are an "integral" part of such operations). As reported, states that "small providers" are not required under sec. 504 of the Rehabilitation Act to make significant structural alterations to their facilities if alternative means of providing services are available. Also deletes amendments that would have revised the pinpoint termination provisions. The version reported by the Committee on Education and Labor has an amendment stipulating that Title IX shall not be construed "to grant or secure or deny any right relating to abortion or the funding thereof," or to require or prohibit any such benefit or service. The version reported by the Committee on the Judiciary has a disclaimer that the amendments made by H.R. 700 "are not intended to convey either the approval or disapproval of Congress concerning the validity or appropriateness" of Title IX regulations concerning health care insurance or services with regard to abortion.

S. 272 (Dole)/ H.R. 2061 (Lungren)

Civil Rights Amendments of 1985. Provides that in Title IX of the Education Amendments of 1972, sec. 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, the phrase "program or activity," when applied to educational institutions receiving Federal financial assistance, shall mean the entire educational institution. Such interpretation, however, shall not be construed as expanding or narrowing the meaning of that phrase in other contexts, and in these circumstances the phrase shall be construed without reference to or consideration of the Supreme Court decisions in *Grove City College* v. *Bell* and in *North Haven Board of Education* v. *Bell*. S. 272 introduced Jan. 24, 1985; referred to Committee on Labor and Human Resources. H.R. 2061 introduced Apr. 16, 1985; referred jointly to Committees on Education and Labor and on the Judiciary.

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MLC-010

SELECTED WOMEN'S ISSUES IN THE 99TH CONGRESS

...five major areas...

Concern over the interrelationship of economic and equity issues affecting women, themes in the 97th and 98th Congresses, has continued in the 99th Congress with increasing legislative recognition of the role of women in the economy, both in the paid labor force and as homemakers. Beginning in 1981, an Economic Equity Act (EEA) has been introduced in each Congress, with new provisions added as sections previously introduced were enacted. In the 99th Congress, the EEA consists of five major issue areas: retirement security for women as workers and divorced spouses; increased availability of dependent care to working families; nondiscrimination in insurance; equal employment opportunity and comparable worth; and equitable tax treatment for women and low-income families.

Legislation introduced for the first time in the 99th Congress would establish new employee benefits related to parenthood. The establishment of a non-discriminatory parental leave benefit is intended to address the issue of limited availability of childcare; the establishment of a non-discriminatory leave for all temporary, nonoccupational medical reasons (including maternity) would create a standard disability benefit for all workers.

Carried forward from the 98th Congress, in addition to the EEA, are measures to define coverage of civil rights law prohibiting discrimination in Federally assisted programs and activities, thus overturning the Supreme Court decision in *Grove City v. Bell* which limited coverage of Title IX of the 1972 Education Amendments to particular programs receiving aid. Also carried forward are questions regarding domestic budget allocations and the allegation that the Administration's budget proposals would affect different income groups unequally. This has implications for women in lower income brackets due to continued reductions in programs for the poor and near-poor, programs whose beneficiaries are predominantly female. Other continuing issues include the question of limiting or restoring coverage of abortion under Federal health care programs and the question of which proposal offered (if any) might best provide equal rights for women.

LEGISLATION

Civil Rights

S. 272 (Dole)
Civil Rights Amendments of 1985. Clarifies the meaning of the phrase "programs or activities" as applied to educational institutions that are extended Federal financial assistance. Introduced Jan. 24, 1985; referred to Committee on Labor and Human Resources. Hearing held July 17, 1985.

H.R. 700 (Hawkins)/S. 431 (Kennedy)
Civil Rights Restoration Act of 1985. Restores the broad scope of coverage and clarifies the application of Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title VI of the Civil Rights Act of 1964. H.R. 700 introduced Jan. 24, 1985; referred jointly to Committee on Education and Labor and Committee on Judiciary. Passed by Labor and Education and Judiciary Committees May 21-22, 1985. S. 431 introduced Feb. 7, 1985; referred to Committee on Labor and Human Resources.

Economic Equity

H.R. 2472 (Schroeder)/S. 1169 (Durenberger)
Economic Equity Act of 1985. Attains economic equity for American women by providing retirement security for women as workers and as divorced spouses; makes quality dependent care available to all working families; ends discrimination in insurance on the basis of race, color, religion, national origin, or sex and improving health care coverage for displaced homemakers; providing equal employment opportunity and pay equity for women; and treating women and low-income families more equitably under the tax laws and tax reform proposals. H.R. 2472 introduced May 13, 1985; referred jointly to Committees on Education and Labor, Ways and Means, Armed Services; Banking, Finance and Urban Affairs; Energy and Commerce; Post Office and Civil Service; House Administration; and Small Business. S. 1169 introduced May 20, 1985; referred to Committee on Finance.

Parental Leave

H.R. 2020 (Schroeder)
Parental and Disability Leave Act of 1985. Entitles employees to specified minimum amounts of leave for (1) temporary disability involving inability to work due to nonoccupational medical reasons; and (2) the birth, adoption, or serious illness of a child. Provides for the protection of the employees' employment and benefit rights during and after such leave. Establishes the Paid Parental and Disability Leave Commission to study and recommend systems for providing salary replacement for employees who take such disability and parental leave. Introduced Apr. 4, 1985; referred jointly to the Committees on Education and Labor and Post Office and Civil Service. Hearing held Oct. 17, 1985.

Equal Rights

H.J.Res. 2 (Rodino)/S.J.Res. 10 (Kennedy)
Constitutional amendment. Provides that equality of rights shall not be denied or abridged by the United States or by any State on account of sex. Introduced in the House and Senate Jan. 3, 1985; referred to Committees on the Judiciary.

S. 86 (Dole)/H.R. 347 (Green)
Amends laws of the United States to eliminate gender-based distinctions. Introduced Jan. 3, 1985; referred to the Committees on Judiciary in House and Senate. On Dec. 3, 1985 passed Senate.

Abortion

H.R. 608 (Schroeder)
Amends the Internal Revenue Code to establish the National Indigent Women's Abortion Trust Fund and to allow every individual to designate a portion of the individual's income tax payment for payment into such trust fund. Amends Title XIX (Medicaid) of the Social Security Act to require State plans for medical assistance to provide for abortions in the same manner as other pregnancy-related services. Introduced Jan. 22, 1985; referred to Committee on Ways and Means.

S. 504 (Hatch)
Amends the Civil Right Act of 1964 to prohibit the use of Federal funds for abortions except when the life of the mother would be endangered if the fetus were carried to term. Introduced Feb. 2, 1985; referred to the Committee on the Judiciary.

Leslie Gladstone

EDUCATION

MLC-011

EDUCATION FUNDING ISSUES: FY85 AND FY86

...reductions proposed for certain programs...

The Reagan Administration proposed reductions in FY85 and FY86 budget authority for certain education programs; redirection of the Federal role in postsecondary student financial assistance; the elimination of certain categorical programs with relatively low FY85 funding levels; and a "freeze" at the FY85 funding level for certain State grant programs. The FY86 request for Department of Education (ED) programs was $15.5 billion, 13.5% below the FY85 funding for these programs of $17.97 billion. The largest portion of the proposed cuts in FY86 budget authority, $1.7 billion, or 66%, was for the Federal postsecondary student financial assistance programs. The Administration proposed $174 million in FY85 rescissions, 59% of which involve termination of the initial funding for elementary, secondary, and higher education programs enacted by the 98th Congress, and supplemental appropriations of $665 million for the Guaranteed Student Loan program. The FY86 request for ED also contains proposals to initiate several new programs including vouchers and tuition tax credits for elementary and secondary education, and education savings accounts for college costs. Questions have been raised in Congress regarding the size and direction of the proposed funding levels for both FY85 and FY86, and the legislative initiatives requested for FY86. Congressional activity has resulted in (1) the passage of the First Concurrent Resolution on the Budget, FY86 (S.Con.Res. 32), which recommended "freezing" most ED programs at the FY85 funding level; (2) the enactment of the FY85 Supplemental Appropriations Act (H.R. 2577, P.L. 99-88), which increased ED funding for FY85 to $19.1 billion (no recissions of FY85 budget authority were enacted); and (3) the enactment of FY86 appropriations, which provide $18.4 billion for ED (H.R. 3424, P.L. 99-178). Congress continues to consider reconciliation measures that would affect the GSL program (H.R. 3500, S. 1730). In addition, the application of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) will result in reductions of 4.3% in FY86 budget authority for most ED programs.

LEGISLATION

P.L. 99-88, H.R. 2577

Supplemental Appropriations Bill, 1985. Among other provisions, recommends $1.073 billion in additional FY85 budget authority for selected ED programs including $0.7 billion for the Guaranteed Student Loan program, $0.3 billion for the Pell Grant program, $0.1 billion for vocational education, and $2 million for the adult education program, and specifies the allocation of FY85 funds according to committee instructions for selected other ED programs. Reported (H.Rept. 99-142) as an original measure by the House Committee on Appropriations on May 22, 1985. Amended and passed the House June 12, 1985. Senate Appropriations Committee reported H.R. 2577, amended (S.Rept. 99-82), on June 13, 1985. Amended and passed the Senate June 20, 1985. Conference report (H.Rept. 99-236) passed the House and Senate Aug. 1, 1985. Signed into law Aug. 15, 1985.

P.L. 99-103, H.J.Res. 388

Continuing appropriations, 1986. Among other provisions, continues authority for ED programs under the current terms and conditions and at a rate of operations not in excess of the current rate through Nov. 14, 1985, or until a regular appropriations bill is enacted, whichever comes first. Reported by the House Committee on Appropriations (H.Rept. 99-272) Sept. 17, 1985, as an original measure. Passed House Sept. 18. Reported by the Senate Committee on Appropriations, unamended, Sept. 24 (S.Rept. 99-142). Passed the Senate, unamended, Sept. 25. Signed into law Sept. 30, 1985.

P.L. 99-154, H.J.Res. 441

Continuing appropriations, 1986. Among other provisions, continues authority for ED programs under the current terms and conditions of the FY85 appropriation through Dec. 12, 1985, or until a regular appropriations bill is enacted. Introduced Nov. 5, 1985; referred to Committee on Appropriations. Called up by rule (H.Res. 312) and passed House amended, Nov. 12. Passed Senate without amendment Nov. 13. Signed into law Nov. 14, 1985.

P.L. 99-177, H.J.Res. 372

Debt Ceiling Increase Act. Among other provisions, contains special Federal expenditure reduction rules for the Guaranteed Student Loan Program. Engrossed and deemed passed by the House Aug. 1, 1985. Reported (S.Rept. 99-144) by the Senate Committee on Finance and passed by the Senate, amended, Oct. 10. House disagreed to Senate amendments, Oct. 11. Conference report (H.Rept. 99-351) filed in disagreement, Nov. 1. Second conference report (H.Rept. 99-433) agreed to by House and Senate Dec. 12. Signed into law Dec. 12, 1985.

P.L. 99-178, H.R. 3424

Departments of Labor, Health and Human Services, and Education Appropriations Bill, 1986. Among other provisions, funds ED programs at $17.5 billion, "freezing" most programs at their FY85 funding level with some exceptions including reducing the GSL program funds by $1.1 billion below the FY85 level. Reported as an original measure by the Committee on Appropriations (H.Rept. 99-289) Sept. 27, 1985. Passed the House, amended, Oct. 2, 1985. Amended and reported by the Senate Committee on Appropriations (S.Rept. 99-151) Oct. 4, 1985. Passed the Senate amended Oct. 22, 1985. Conference report ordered printed Nov. 21, 1985, H.Rept. 99-402. Conference report as modified was accepted by the House, Dec. 5 and the Senate, Dec. 6, and signed into law, Dec. 12, 1985.

S.Con.Res. 32 (Domenici)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funds for ED programs. Reported (S.Rept. 99-15) as an original measure by Committee on the Budget Mar. 20, 1985; considered, amended, and passed the Senate May 9, 1985. Amended by incorporating the provisions of H.Con.Res. 152 and passed the House May 23, 1985. Conference report (H.Rept. 99-249) passed the House and Senate Aug. 1, 1985.

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MLC-012

STUDENT FINANCIAL AID PROGRAMS: FY86 BUDGET

...student aid comprises 47% of ED budget...

The Reagan Administration's FY86 budget requested a $1.4 billion reduction in Department of Education postsecondary student aid programs, which the Department estimated would end assistance for more than 1 million students. Administration proposals to reduce the budget would have virtually eliminated grants, loans, and work-study aid for moderate income students, and limited the amount of such aid for any one eligible needy student to $4,000 per academic year. The Congress rejected those proposals in FY86 appropriations legislation, H.R. 3424, and in its action on the First Concurrent Resolution on the Budget for FY86, S.Con.Res. 32. The Congress is, however, considering changes in the Guaranteed Student Loan Program through the Omnibus Budget Reconciliation Act of 1985; H.R. 3128, which was in conference at the end of the first session of the 99th Congress.

The application of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) will result in a 4.3% reduction in FY86 budget authority for most student assistance programs except GSLs, which may have limited reductions.

Since FY82 the Administration has recommended reductions in funding for student aid programs, which currently comprise 47% of the ED budget. The Congress has rejected making fundamental changes in student aid programs through the appropriations process, although it made major cuts in such programs through the Omnibus Budget Reconciliation Act of 1981.

LEGISLATION

P.L. 99-178, H.R. 3424
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1986. Includes $4.887 billion for Student Financial Assistance and $3.3 billion for Guaranteed Student Loans for FY86. Reported by the House Committee on Appropriations Sept. 26, 1985 (H.Rept. 99-289). Passed House, amended, Oct. 2, 1985. Reported by Senate Committee on Appropriations Oct. 4, 1985 (S.Rept. 99-151). Passed Senate, amended, Oct. 22, 1985. House agreed to conference report Dec. 5, 1985 (H.Rept. 99-402). Senate agreed to conference report Dec. 6, 1985. Signed into law Dec. 12, 1985.

H.R. 3500 (Derrick)/H.R. 3128 (Rostenkowski)/S. 1730 (Domenici)
Omnibus Budget Reconciliation Act of 1985. Among other provisions, amends requirements for loan guaranty agencies and loan collection procedures related to postsecondary student financial assistance programs of the Higher Education Act, extends the Guaranteed Student Loan program through FY88, and makes technical amendments to the authorization for the Student Loan Marketing Association; report language (p. 271) estimates that these amendments will achieve an estimated cost savings of $201 million in FY86, $252 million in FY87, and $415 million in FY88. Reported (H.Rept. 99-300) as an original measure by the Committee on the Budget, Oct. 3, 1985. Passed House, amended, Oct. 24, 1985. S. 1730 introduced as an original measure. Reported by the Senate Committee on the Budget (S.Rept. 99-146) Oct. 2, 1985. Indefinitely postponed in the Senate Nov. 14, 1985 and H.R. 3128, as amended, passed in lieu. The Senate-passed bill is similar to H.R. 3500, as passed but would also reduce the special allowance yield to lenders and accelerate Sallie Mae's debt repayment schedule but would not apply a need test to GSL recipients with incomes below $30,000. H.R. 3128 as passed the House contains no provisions related to GSL program changes. It is H.R. 3128 that is the reconciliation measure in conference at the end of the 1st session of the 99th Congress.

H.Con.Res. 152 (W. Gray)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funding for ED programs. Reported (H.Rept. 99-133) May 17, 1985. Passed the House May 23, 1985. Laid on table in House, with S.Con.Res. 32 passed in lieu.

S.Con.Res. 32 (Domenici)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funds for ED programs. Reported (S.Rept. 99-15) as an original measure by Committee on the Budget Mar. 20, 1985; considered, amended, and passed the Senate May 9, 1985. Passed House, amended, May 23, 1985. Conference report agreed to by House and Senate Aug. 1, 1985 (H.Rept. 99-249).

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ELECTIONS

MLC-013

CAMPAIGN FINANCING/PUBLIC FINANCING

...what is the best method?...

The financing of Federal election campaigns is a complex subject comprising many issues. If one issue relative to campaign financing can be isolated from the others and considered to be of paramount concern, it is the source of political campaign money: whether congressional campaign funds should be derived solely from private contributions as in the past, or whether the method of financing political campaigns for Federal offices should be changed to a public financing system and, if so, in what way. The Federal Election Campaign Act (FECA) was passed in 1971 (P.L. 92-225, 86 Stat. 3 (1972)). It has been amended three times by P.L. 93-443 (88 Stat. 1263 (1974)); P.L. 94-283 (90 Stat. 485 (1976)); and P.L. 96-187 (93 Stat. 1339 (1980)). The Revenue Act of 1971 (P.L. 92-178, 85 Stat. 573) established a fund to finance Presidential campaigns by the $1.00 tax check-off on Federal income tax forms. These Acts comprise the laws regarding campaign financing of Federal elections.

Public Financing of Congressional Campaigns

At present, public financing is available to Presidential candidates in both the primary and general election campaigns. But public financing is not presently available to congressional candidates. The new tax simplification plan introduced on May 28, 1985 by the Administration would eliminate the tax check-off provision for Presidential public financing. Without the tax check-off provision whereby $1 ($2 for a joint return) is designated to the Presidential Election Campaign Fund, public financing for Presidential elections may be eliminated.

Because of the soaring costs of congressional elections and because of the increasing involvement of political action committees (PACs) in the financing of congressional elections, public financing proposals in Congress for congressional candidates have been receiving more attention as ways to get "corrupt and excessive" money out of congressional elections. Public financing proposals offer to congressional candidates alternative methods for financing their campaigns so that they do not have to rely on PACs. However, the major [but by no means the only] argument against public financing is that it would require a significant amount of Federal funds to finance such a program, and a major expansion of the Federal election commission bureaucracy to administer it. Public response to such expenditures in times of budget stringency is by no means clear.

Public financing proposals in Congress have been quite diverse and have taken on the following forms: (1) direct subsidy proposals, (2) electronic media subsidy proposals, (3) postal subsidy proposals, and (4) tax credits or tax deductions for all or a percentage of contributions to congressional campaigns. Many public financing proposals for congressional candidates provide for certain conditions to receiving public funds such as: (1) limitations on expenditures, (2) limitations on expenditures from personal funds, (3) limitations on media expenditures, and (4) overall aggregate limitations on contributions by PACs.

Proposals to Limit Contributions By PACs to Congressional Candidates

Because of the phenomenal growth of PACs and the substantial amounts of money which have been raised, contributed, or spent on congressional elections by them, legislation has been proposed in Congress to limit contributions by PACs. Two basic proposals have been advanced which would further restrict PAC contributions to congressional candidates: (1) a proposal to reduce the present contributions limitation of $5,000 per election to a congressional candidate to a lesser amount, such as $2,500 or $1,000 per election to a congressional candidate and (2) a proposal to impose an aggregate limitation on the amount which a congressional candidate could receive from all PACs in a 2-year election cycle.

LEGISLATION

H.R. 122 (Jacobs)

Amends the Federal Election Campaign Act of 1971 to provide for public financing of advertising and related expenses in campaigns for the House of Representatives and to prohibit contributions by multicandidate political committees to candidates who accept such financing.

Provides that each candidate in an election for the House of Representatives shall be entitled to: (1) a 90-minute allotment of television time, divided as the candidate chooses provided that each appearance on television is at least 5 minutes long; (2) an allotment of 135 minutes of radio time, divided as the candidate chooses provided that each appearance on radio is at least 5 minutes long; (3) an allotment of 126 column inches or one page, whichever is greater, of newspaper advertising, divided as the candidate chooses provided that no individual advertisement uses less than ten column inches or (4) an allotment of any costs incurred in the installation of telephones and other equipment for a question-and-answer format if such a format is used during a candidate's allotment time on television or radio. Provides that a candidate for the House of Representatives may be eligible to receive such a campaign allotment by arranging in advance for each advertisement and by submitting to the Federal Election Commission no later than 10 days before the election a schedule of such advertisements. Provides that a candidate must certify to the Commission that such candidate will not make expenditures from his personal funds, the personal funds of his immediate family, or funds donated to his campaign committee for any of the purposes for which such candidate accepts such campaign allotment. Provides further that a candidate who accepts any contribution from a multicandidate political committee with respect to an election shall not be eligible to receive a campaign allotment with respect to such elections. Introduced Jan. 3, 1985; referred to Committee on House Administration.

H.R. 761 (Stratton)

Free Political Broadcasting Act of 1985. Provides free radio and television time to candidates for election to Federal office. Provides that the Federal Election Commission shall establish the eligibility of candidates for such free broadcast time. Provides for various allotments of broadcast time to Federal office candidates depending on the office being sought. Appearances on news programs and public service programs shall not be considered attributable to the free broadcast time allotment of such candidate. Provides that the equal opportunities requirements of section 315 of the Communications Act of 1934 shall not be applicable in the case of the use of radio and television facilities for free broadcast time. Introduced Jan. 28, 1985; referred to Committee on House Administration.

H.R. 1284 (Udall and Frenzel)

Establishes a Bipartisan Commission on Congressional Campaign Financing so as to improve the manner in which congressional campaigns are financed. Provides that the commission would be an eleven-man commission to study the existing system of campaign financing and make recommendations for improving it. Provides that two members of the commission would be chosen by the Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader, for a total of eight members. Provides that the Republican and Democratic National Chairmen would get one appointment each and that the eleventh person would be chosen jointly by the Senate majority leader and the Speaker of the House. Requires the commission to report back to Congress its recommendations within one year of the date that the bill is enacted. Authorizes the commission to hold hearings, and take necessary testimony. Introduced Feb. 26,1985; referred to Committee on House Administration.

H.R. 3863 (Frenzel et al.)

Federal Election Campaign Act Amendments of 1985. Amends the Federal Election Campaign Act of 1971 to increase the role of political parties in financing campaigns. Provides that certain payments to political committees of political parties are not to be considered as contributions and expenditures under the Act. Such payments would include payments to such committees specifically designated to defray the establishment, administration, and solicitation costs of such committees.

Provides that no multicandidate political committee which is a political committee of a political party shall make contributions to any candidate or to his or her authorized political committees which in the aggregate exeed $15,000. Provides that nothing in the Act shall prevent a political committee of a political party from engaging in bona fide commercial transactions from which the proceeds are used solely to defray the establishment, administration, and solicitation costs of the committee. Introduced Dec. 5, 1985; referred to the Committee on House Administration.

S. 297 (Boren)

Amends the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections. Limits to $75,000 the amount a House candidate can accept from all PACs in each election cycle. Limits Senate candidates to an amount that would vary with the population of their State from a low of $75,000 to a high of $500,000. Raises the PAC limitation to $100,000 if two or more candidates qualify for the ballot in the primary and general election. Allows an additional $25,000 in PAC money in the event of a Senate or House runoff election. Increases individual contributions limitations to Federal office candidates from $1,000 to $2,500 per election. Introduced Jan. 24, 1985; referred to Committee on Rules and Administration.

S. 323 (Proxmire)

Clean Campaign Act of 1985. Amends the Federal Election Campaign Act of 1971 to limit contributions by nonparty multicandidate political committees in senatorial campaigns. Would also provide for public financing of general election campaigns for senatorial campaigns. Provides that eligible senatorial candidates may not make expenditures in a campaign in excess of $600,000 plus 5 cents multiplied by the voting-age population in the State. Provides that individual contributors making contributions to qualified senatorial candidates be granted a 100% tax credit up to $200 for individual returns ($400 for a joint return). Provides for the suspension of expenditure limitations and reduced postal rates for qualified candidates when any candidate in the general election has not become a qualified candidate. Provides for reduced postal rates, when a total of more than $5,000 in independent expenditures is made in opposition to, or on behalf of, an opponent of a qualified candidate. Provides for certification by the FEC of the eligibility of candidates as well as for the examination and audits by the FEC of the campaign accounts of 10% of the qualified candidates. Introduced Jan. 31, 1985; referred to Committee on Finance.

S. 471 (Dodd and Melcher)

Amends the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1954 to provide a 100% tax credit for small contributions to senatorial candidates who agree to abide by an overall spending limit and a limit on the use of personal funds. Provides that in order for a candidate to receive tax creditable contributions, the candidate must have received threshold contributions of 5% of the expenditure limitation for the State which is determined by a formula using the State's voting age population. Provides that a contributor can get a 100% tax credit for contributions up to $100 with a maximum available credit of $200 to all qualified

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candidates in an election. The expenditure limitations for candidates would be equal to $500,000 plus 15 cents for each person of voting age in the State plus the amount that is presently permitted for expenditures by political parties. Provides that the overall expenditure limitations and the limitations on the use of personal funds would be lifted for a qualified candidate, if an opponent chose not to participate in the tax credit system. Provides that a qualified candidate would be eligible for an equal amount of free broadcast time in situations in which a broadcast station carries independent expenditure ads in opposition to a qualified candidate or in support of a candidate's opponent. Introduced Feb. 19, 1985; referred to Committee on Finance.

S. 528 (Rudman et al.)
Establishes a Bipartisan Commission on Congressional Campaign Financing so as to improve the manner in which congressional campaigns are financed. Provides that the commission would be an eleven-man commission to study the existing system of campaign financing and make recommendations for improving it. Provides that two members of the commission would be chosen by the Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader, for a total of eight members. Provides that the Republican and Democratic National Chairman would get one appointment each and that the eleventh person would be chosen jointly by the Senate majority leader and the Speaker of the House. Requires the commission to report back to Congress its recommendations within one year of the date that the bill is enacted. Authorizes the commission to hold hearing, and take necessary testimony. Introduced Feb. 28, 1985; referred to Committee on Governmental Affairs.

S. 1891 (Heinz et al.)
Federal Campaign Reform Act Amendments of 1985. Amends the Federal Election Campaign Act of 1971 to provide that certain payments to political committees of political parties are not to be considered as contributions and expenditures under the Act. Such payments would include payments to such committees specifically designated to defray the establishment, administration, and solicitation costs of such committees.

Provides that no multicandidate political committee which is a political committee of a political party shall make contributions to any candidate or to his or her authorized political committees which in the aggregate exceed $15,000. Provides also for various amendments to the FEC enforcement provisions. Introduced Dec. 3, 1985; referred to Committee on Rules and Administration.

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ENERGY

MLC-014

ENERGY AND THE 99TH CONGRESS: OVERVIEW

...some differences remain between Administration and Congress...

INTRODUCTION

Perceptions of the national energy problem -- its urgency and how it should be addressed -- have changed significantly in the more than 10 years since the Arab oil embargo. National energy policy during the 1970s was premised upon projections that world petroleum demand would outstrip supply by the mid-1980s and thus that the Federal Government should assume a broad interventionist and supporting role in energy policy.

As the near-term urgency of the energy problem has diminished, the nature of the policy response has changed. During its first term, the Reagan Adminstration sought to sharply cut Federal spending for energy programs and vigorously opposed government intervention in energy markets; it was, in large measure, successful in these efforts. Energy became one part of a broader economic recovery program predicated on the view that unregulated markets should determine the mix and price of fuels relied upon by the Nation. The 97th and 98th Congresses moderated some of the Adminstration's proposed spending cuts, but essentially accepted a reduction in the regulation of energy markets. Still, some differences remain between Congress and the Administration over spending for certain energy programs, such as the Strategic Petroleum Reserve, and other issues left unresolved in the 98th Congress have drawn attention during the 99th.

The Department of Energy Organization Act (P.L. 95-91) requires the Administration to make periodic reports to Congress on national energy policy. The most recent reports submitted to Congress by the Reagan Administration have been slim volumes compared to their predecessors. In 1977, President Carter described the energy dilemma as one which could only be "effectively addressed...by a Government that accepts responsibility for dealing with it comprehensively and by a public that understands its seriousness and is ready to make necessary sacrifices." This declaration was accompanied by comprehensive energy legislation, some provisions of which were enacted in 1978 in five separate bills that extended authorities to govern energy decisionmaking by industry, institutions, and individuals.

By contrast, the Reagan Administration has argued that the expansion of the role of the Federal Government was misguided and counterproductive. Almost immediately, the new Administration pursued a course of transferring decisionmaking away from the Federal Government.

The Reagan program has deemphasized energy as a problem that commands a discrete policy response. Instead, it has become part of broader economic policies and philosophies. The Administration stated in its National Energy Policy Plan (NEP-III) that the reformulation of policies affecting energy was part of a "comprehensive Program for Economic Recovery." That program, when fully implemented, would "release the strength of the private sector and ensure a vigorous economic climate in which the Nation's problems, including energy problems, will be solved primarily by the American people themselves...."

"The regulatory emphasis was overwhelming," the Administration noted in the NEP-III, "and experience suggests that national energy policy should break cleanly and candidly with that approach." As a demonstration of its commitment to diminish Federal regulation, the Administration immediately decontrolled petroleum several months ahead of the statutory expiration of controls.

While the Carter Administration advanced conservation as the "cornerstone" of its energy program and argued that fossil fuel demand had to be moderated to forestall the depletion of fossil fuel resources, the Reagan Administration rejected what it characterized as the logic of spending more to conserve a barrel of oil than it cost to replace it. However, in its most recent National Energy Plan (NEP-IV), published in October 1983, the Administration did acknowledge that conservation can sometimes be cheaper than consumption, and that "further gains can still be made" despite the softening of oil prices.

The Administration summarized its current policy in NEP-IV as twofold: (1) continuing to minimize Federal involvement in energy markets while acknowledging the appropriate role of government in protecting the environment, maintaining health and safety standards, and improving energy security; and (2) promoting a "balanced and mixed energy resource system." To this end, the Administration has supported, and is likely to continue to support, early stages of research and development of promising high-risk technologies that cannot attract private sector investment. However, with renewed attention on the deficit and controlling Federal spending, this support may well be moderated.

The budget has been the major vehicle for the Administration's energy philosophy. Since assuming office in 1981, the Administration has proposed sharp reductions in spending for energy programs, many hotly contested by Congress, which restored some program cuts. In other instances, Congress and the Administration have "split the difference," but, given the break with historic spending patterns stemming from such compromises, the Administration has had a strong impact on Federal energy spending and policy.

The Administration requested $12.4 billion for DOE in FY86, essentially the same level as funding for FY85. But, the budget included a $700 million increase in spending for atomic energy defense activities (which actually comprises almost two-thirds of the DOE budget) and a corresponding decrease in the "civilian" portion of the DOE budget. Spending for these activities would be reduced from $5.0 billion in FY85 to $4.4 billion in FY86. Prior to the August recess, the House and Senate passed H.R. 2959, the Energy and Water Development Appropriations Bill for FY86. Both Houses proposed significantly lower spending for defense activities than was requested by the Administration. The House also passed H.R. 3011, the Interior and Related Agencies Appropriations for FY86, proposing significantly higher spending levels for conservation and fossil energy R&D than the Administration had requested. However, as the Department of Energy faces in early 1986 the first round of sequestration orders under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, known more familiarly as Gramm-Rudman-Hollings), even the most recent congressional commitments to spending may be subject to a reordering of priorities. (See IB85050 -- The Department of Energy's FY86 Budget.)

A discussion of issues in energy policy likely to occupy the attention of the 99th Congress follows.

OIL

Within days of its accession to power, the Reagan Administration, meeting the promise of its frequent campaign vow to reduce Federal energy regulation, exempted gasoline and crude oil from price and allocation controls. President Reagan vetoed legislation passed in the 97th Congress which would have retained standby discretionary authority to reimpose civilian petroleum price and allocation controls. Controls have not been a major legislative issue since then, but a number of independent refiners have begun to urge for a tax or quota on inexpensive refined product imports that the independents claim to be contributing to a "shakeout" in the domestic refining industry. The independents also have their eyes upon refineries commencing, or soon to commence, operations in OPEC nations, which may add to the volume of less expensive products available in world markets by the late 1980s.

Proponents of import fees or quotas suggest that a further erosion in U.S. refining capacity will make the Nation more dependent once again upon foreign supply, more vulnerable to price hikes and -- in a worst case analysis -- without adequate capacity to refine crude from the Strategic Petroleum Reserve during a severe interruption.

However, marketers and integrated refiners argue that the rash of refinery closings are attributable to a number of factors quite apart from a steady increase in product imports. This faction notes that many of the refineries affected adversely in the current market are smaller, less efficient, refineries constructed during the 1970s in anticipation of continued growth in demand, and to take advantage of then current Federal regulations. Marketers see little reason to prop up domestic product prices to protect less efficient capacity. The integrated companies generally have access to less expensive crude from abroad, which is enabling them to absorb refining losses for the present. In some instances, the integrated companies themselves have some partnership in refineries abroad precisely because it is sometimes less expensive to import products than to refine the marginal barrel domestically.

Thus, there is no consensus within the industry either about the need for, or appropriateness of, any action. During the 99th Congress, hearings have been held on the issue with particular respect to the national security issues that might be raised by a further contraction within the industry.

Quite apart from being a protectionist measure, an oil import fee has been urged by some as a means of raising revenue and reducing the Federal deficit. And, if crude prices fall as sharply during the early spring of 1986 as some predict, an import fee would keep product prices from falling -- which, in turn, would discourage a return to wasteful consumption in the United States. However, some economists point out that lower crude and product prices would have a beneficial effect upon the economy and -- by extension -- Federal revenues. At issue is the extent to which an import fee would offset these benefits and the relative political appeal of reducing the deficit through an import fee in contrast to some sort of general tax increase.

One issue which received legislative attention early in the 99th Congress was the reauthorization of the Export Administration Act. The Trans-Alaska Pipeline Authorization Act (P.L. 93-153) in 1973 prohibited exports of Alaskan oil to non-contiguous foreign countries unless the President made specific findings with the concurrence of Congress. It was widely thought at the time to be a reasonable prohibition, given perceptions then that oil was likely to remain in short and uncertain supply. Subsequent amendments to the Export Administration Act in 1977 and 1979 imposed more severe restrictions on oil exports. Alaskan oil producers have sought to ease the export restriction because Alaskan production might bring higher prices from Japan and Asia, but the domestic maritime industry, which enjoys the commerce of carrying Alaskan oil to U.S. ports on both coasts, has discouraged any change in the law. Others oppose the export of U.S. oil in principle.

The 98th Congress passed simple extensions while deliberating over more comprehensive legislation, which was in conference when Congress adjourned. The legislation was reintroduced in the 99th Congress and passed by both bodies. The conferees settled upon extending the EAA until Sept. 30, 1989, and continuing the prohibition against exports until Sept. 30, 1990. The bill also establishes a commission to study the consequences of oil exports and to report prior to reconsideration of the Act in the late 1980s.

EMERGENCY PREPAREDNESS

In its initial policy statements about energy emergency preparedness, the Administration declared its strong preference for maximum reliance upon the marketplace to price and allocate petroleum during energy shortages. Congress was largely in agreement that the petroleum price and allocation controls relied upon during the shortages of 1973-74 and 1979-80 had been an inappropriate response for shortage episodes of that magnitude.

However, Congress was insistent that a market-oriented preparedness policy would probably be inadequate during shortages of greater severity. In the face of considerable congressional resistance, the Administration began to reassess publicly its position in early 1984, and announced that it would favor early drawdown of the Strategic Petroleum Reserve as a means of stabilizing markets and (by extension) discouraging panic and price spikes. In July 1984, the Administration persuaded other member nations of the International Energy Agency (IEA) to sign an agreement to explore the option of an IEA-wide coordinated stock drawdown as a policy of early resort in the event of a supply emergency.

Section 252 of the Energy Policy and Conservation Act (EPCA, P.L. 94-163) provides a limited antitrust defense which enables major oil companies to participate in the IEA's oil sharing plan, should it be activated. After some delays, the 98th Congress agreed in March 1984 to extend section 252 until the end of June 1985. Legislation was introduced in the 99th Congress, H.R. 1699, to extend the authority until June 30, 1989, and also included language to extend EPCA provisions governing the SPR program. A related bill, H.R. 1698, directed the DOE to conduct an actual sale or exchange of 1.1 million barrels of SPR oil within 6 months of enactment. In the past, energy emergency legislation has often become bogged down with provisions added on in committee that were unacceptable to the Administration. In this instance, both the House and Senate committees responsible for reporting out the legislation expressed the wish to keep the bills as straightforward and noncontroversial as possible -- particularly with respect to the IEA extension, for which there is somewhat greater urgency. Both the Senate and House passed their versions of the extensions by significant margins and the legislation was signed into law on July 2, 1985. The bill as enacted, does include provisions requiring a test sale and drawdown of SPR oil (P.L. 99-58).

The major energy emergency preparedness issue, however, has been the Strategic Petroleum Reserve budget for FY86. With increased concern about the Federal deficit and a perception that the likelihood and magnitude of threat has diminished, the Administration persuaded Congress to budget lower fill rates for the Strategic Petroleum Reserve in recent years. From a high of 292,000 b/d in FY81, the fill rate dropped to a projected 159,000 b/d in FY85. In late 1985, the Adminstration proposed a moratorium on fill of the Reserve after the close of FY85 when the Reserve will hold roughly 490 million barrels.

The Administration's position rested on the premise that 500 million barrels will be adequate to provide the measure of security that it was thought, only a few years ago, would have required a much larger Reserve. The Administration also believed that a disruption during the remainder of this decade -- potentially greater in magnitude than those experienced during the 1970s -- is unlikely, and that should perceptions change about the degree of threat, fill can be resumed.

In the House, Representative Sharp proposed that fill be continued at 50,000 b/d, and the Senate Budget Committee initially voted for a plan put forward by Senator Johnston to continue fill at that level in FY86 and FY87. However, on March 13, the Committee voted along party lines in favor of an omnibus spending package which adopted the Administration's proposed moratorium. Prior to the breakdown of the conference on the FY86 budget in late June, the House offered a compromise fill rate of 35,000 b/d, but the Senate conferees left the proposal unacknowledged.

In related action, the House disapproved the Administration's proposed deferral of $827 million for SPR purchases in the FY85 supplemental appropriations legislation (H.R. 2577). This was money intended for oil purchased during FY85 that would be delivered during FY86, after the proposed moratorium would commence. The House also rejected the deferral of an additional $271 million for development of storage facilities. The Senate sided with the House in the disapproval of the deferral for facilities development, but supported deferral of oil purchase funds.

The differences between the House and Senate over the supplemental appropriations, as well as the FY86 fill rate, were settled in tandem. The conferees on the supplemental decided to overturn $290 million of the proposed deferral in oil purchase money -- an amount sufficient to fill the Reserve during FY86 to 500 million barrels at the previously proposed compromise fill rate of 35,000 b/d.

However, on Dec. 27, 1985, DOE sent a letter to Congress announcing that the Administration intended to seek a new deferral of spending on development and fill of the SPR. The Department sent instructions to its Project Management Office to suspend newly initiated development activities at the Big Hill storage site in Texas. Fill of the Reserve was to be halted at the end of January 1986 "until further guidance is provided." It is not yet apparent whether Gramm-Rudman-Hollings has lessened the emphasis which Congress expressed in the FY85 supplemental for continued development and modest fill of the SPR -- and, therefore, not apparent what the congressional response will be in the second session to DOE's plans.

NATURAL GAS

Not long after decontrolling petroleum in January 1981, the Reagan Administration strongly indicated its intention to seek early decontrol of natural gas. In the early spring of 1982, the Administration indicated it would not seek decontrol during the 97th Congress, a decision probably motivated by awareness of the political opposition to decontrol in a sluggish economy. Rising gas prices in the fall of 1982 spurred a flurry of bills before the 97th Congress adjourned, but nothing was decided in the expectation that there would be a thorough and complete revision of the Natural Gas Policy Act (enacted in 1978) in the 98th Congress. The NGPA essentially created two categories of natural gas -- one regulated for the life of the resource, and the other to be deregulated on Jan.1, 1985. The NGPA also brought intrastate gas under regulation for the first time.

President Reagan transmitted decontrol legislation in early 1983. The legislation was intended in part to address price increases which were attributed to "take or pay" provisions to which pipelines had committed themselves during periods of insecure supply. Take or pay required the pipelines to accept or pay for contracted volumes even if they could not be marketed feasibly at the contract price. The Administration and Congress wrestled with a number of possible fixes to this and other problems, but there was division within

Congress and the industry. Legislation reported from committee in the House never went to the floor, and attempts to fashion compromise legislation in the Senate were also unsuccessful.

An attempt to marshall comprehensive natural gas legislation through the 99th Congress was not anticipated. DOE Deputy Secretary Danny Boggs indicated in late June that the Administration favored some action this calendar year and that the Administration might, at a later date, endorse one of the legislative proposals that have been submitted. However, most legislative and gas industry initiatives were placed on hold pending issue of an order by the Federal Energy Regulatory Commission (FERC) in late 1985. It was expected that the order would address several regulatory issues lingering from past decontrol legislation and from additional problems that emerged in the depressed market for gas.

Order 436, issued in early October 1985, establishes conditions under which pipelines can serve new markets and establishes conditions under which interstate pipelines can broaden their service into new markets. The order did not address other pending issues such as renegotiation or cancellation of take-or-pay contracts, nor did it address how costs for gas are allocated in the rates charged to different classes of consumers. In part, then, the FERC Order serves as a regulatory and administrative substitute for legislation at this time, but other issues in natural gas regulation await resolution. (For additional information, see archived IB85058 -- Natural Gas Policy: The Changing Market and Current Issues and IB84082 -- Natural Gas Transportation: New Directions from FERC.)

CONSERVATION

Conservation was a "cornerstone" of the Carter Administration's energy program, largely due to a perception in many parts of the world which anticipated that world demand for petroleum would outstrip supply as early as 1985. This has proven to be far from the case. The urgency vanished. This change in outlook has been reflected in the Reagan Administration's posture towards conservation.

The Reagan Administration expressed support for the principle of conservation, but has opposed Federal subsidization of conservation policies when the cost of conserving would exceed the cost of using conventional fuels. Instead, the Administration defined conservation in NEP-III (1981) as "the economically efficient use of resources," which was "best accomplished through well-informed market decisions" made by individuals acting in their own self-interest. It made little sense to the Reagan Adminstration to regulate prices below market level on the grounds this not only would discourage private sector investment, but in turn would compel the Federal sector to step into support research, development, and commercialization of conservation technology. Accordingly, oil and gas decontrol, and unregulated markets would enable individuals and industry to make the most sensible decisions about energy mix and conservation investment decisions. The only appropriate active role for the Federal Government in conservation, according to NEP III, was "to conduct basic research in fields of scientific inquiry where new knowledge can expand the generic technology base underlying ... conservation."

The Administration's philosophy was reflected in its budget proposals for conservation. Projected reductions in the conservation budget were to total $2.4 billion by the end of FY86, representing reductions in program outlays of 30% in FY81, 80% in FY82, and over 90% in FY83. Congress restored most of the proposed cuts over this period, arguing that maintaining conservation programs, in conjunction with a more supply-oriented energy policy, was the best assurance of reducing short-term dependence on imported oil while in the long-term reducing the rate of depletion of domestic resources. For FY84 the Administration requested $74 million; Congress appropriated $430.5 million.

In the most recent National Energy Plan -- NEP-IV, published in 1983 -- the Administration retreated from the resolute tone of its earlier position, describing conservation as "a significantly important energy resource" and "an important component of the available energy resource mix." The Administration requested $370.7 million for conservation for FY86, an amount roughly 20% less than previously authorized. In July 1985, the House voted an appropriation of $468 million, essentially restoring what the Administration had sought to cut from the authorized level. But conservation is almost certain to be an early target of Administration budget cuts under the pressure of Gramm-Rudman-Hollings. Whether conservation will still be a congressional funding priority amidst a number of difficult choices remains to be seen.

COAL

The Administration and industry outlook for coal production and consumption could best be described as guarded optimism. Preliminary production estimates for 1986 are about 888 million tons, a slight increase over the 885 million tons produced in 1985. The National Coal Association predicts that actual mine consumption during 1986 will decrease slightly from the 903 million tons burned this year -- probably as utilities continue to burn their stockpile buildup of

1984. The buildup in stocks resulted from the anticipation of a United Mine Workers strike that never materialized.

At the same time, coal's share of the total energy mix is increasing at rates significantly less than had been projected just a few years ago. Much of the downward adjustment in demand is attibutable to declining oil prices and reductions in expected demand for electricity in domestic markets. As for the export market, U.S. producers are finding it increasingly difficult to compete with other exporters who can deliver coal at lower prices. These developments leave Congress and the Administration with the perplexing task of examining the components of the delivered cost of coal to assess whether U.S. coal can be made more competitive.

Several other issues remain as unfinished business from previous Congresses, notably coal leasing. The 98th Congress was preoccupied with assuring the Government a fair return from its coal leasing program. At issue now is Section 3 of the Coal Leasing Amendments Act of 1976, which stipulates that holders of non-producing lease tracts, held for longer than 10 years, cannot bid for any other Federal leases. The Act did not distinguish between coal, oil, gas, potash, sulfur or any other leaseable minerals specified. Thus, those holding non-producing coal leases with interest, for example, in oil and gas leases, may be compelled to relinquish the non-producing lease, or produce from it in the absence of an assured market for the production. The deadline for complying with Section 3 requirements is Aug. 6, 1986, and Congress faces having to decide to either let the provisions stand, or amend or repeal them before the deadline. The committees of jurisdiction have the matter under review. Although the coal and affiliated oil industries want Congress to repeal Section 3 altogether, some within the industry are concerned that Section 3 repeal may be tied to repeal of Section 2-C of the Mineral Leasing Law. The repeal of Section 2-C, long opposed by independent coal producers, would permit the leasing of Federal coal to railroads and would place them in direct competition with other coal companies. (For more information, see IB83111, Coal Leasing Policy: Continuing Difficulties.)

Congress also has under study the Office of Surface Mining (OSM), established by the 1976 Act. OSM has been criticized for its oversight of surface mine regulation and its allocation of funds for the restoration of abandoned mine lands. Significant penalties and fines have been assessed against mine operators by OSM, but have not been collected. Several States have also criticized the OSM for not turning over to the State monies collected for abandoned mine reclamation. Some have charged that the Administration has little intention of making these funds available to the States, preferring instead to use them as a source of general revenues to reduce the budget deficit.

The Department may become more inclined to withhold AML funds as the Administration begins applying the provisions of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985. Since the AML fund is considered a trust fund for bookkeeping purposes only, the Department may be permitted to apply the proceeds of the reclamation tax levied on the mining industry to other Interior initiatives as it tries to achieve its budget cutting goals.

Another issue receiving attention once again during the 99th Congress is an Interstate Commerce Commission policy that has been effected pursuant to the deregulation of railroad coal transportation rates. The coal industry continues to maintain that it is frequently captive to the rails, and that high coal transportation costs are a major factor contributing to the diminishing share of U.S. coal in world markets. The coal industry has argued that the regulation issued by the ICC governing the definition of "captive shippers" has made what is captive unreasonably difficult to prove. The industry has been urging for congressional intervention to clarify the congressional intent of the Staggers Rail Act of 1980.

NUCLEAR

The Reagan Administration's position on nuclear power was defined in a statement by the President on Oct. 8, 1981. He termed it "one of the best potential sources of new electrical energy supplies in the coming decades," but said that its potential was not being realized because it had become "entangled in a morass of regulations" and because the Government had not developed an "acceptable system for commercial waste disposal." He also noted that efforts directed narrowly at helping nuclear power, such as regulatory reform, "will be of little use if the utility sector cannot raise the capital necessary to fund construction of new generating facilities."

The issues identified in the Reagan statement remain of active interest to Congress. Licensing legislation was proposed by the Department of Energy and by the Nuclear Regulatory Commission during the 98th Congress, but did not get beyond the hearing stage. A modified version of the legislation has been introduced in the 99th Congress (see also IB80081 -- Nuclear Power Plant Safety and Licensing). Another licensing issue has been the role of State and local governments in emergency planning around nuclear powerplants (see IB84120 -- Nuclear Power Plants: Emergency Planning).

Also before the Congress is the Price-Anderson nuclear indemnification and liability act, which is due to expire in 1987. The Price-Anderson Act sets a limit on public liability for a nuclear accident and provides for funding to pay damages for an accident up to that limit. Although nuclear plants already under construction or operating would continue to be covered by Price-Anderson if it expired, new plants ordered after expiration would not be covered. (See IB85181 -- Nuclear Liability Legislation: Price-Anderson Act Renewal Issues.)

The major problem facing nuclear power, however, remains the relatively slow growth in demand for electricity and the poor financial condition of some utilities engaged in nuclear construction projects. The Administration has been in no hurry to propose legislative remedies for these difficulties, and congressional initiatives in the area of the electric utility industry have been more concerned with protecting consumers from rate increases resulting from construction difficulties than with the health of the nuclear industry.

Nuclear waste management was the subject of major legislation in the 97th Congress. It culminated in passage of the Nuclear Waste Policy Act (P.L. 97-425), setting a schedule for development by DOE of waste repositories, formalizing the role of State and Indian authorities in siting of waste facilities, and setting up a system of user fees to pay for the waste management program. Despite enactment of legislation, however, the issue remains controversial, and congresssional oversight on DOE's implementation of the Act has been intense. In addition, difficulties with siting new disposal grounds for low-level radioactive waste led the 99th Congress to amend the Low-Level Radioactive Waste Policy Act of 1980 by setting a tight schedule for States to provide new disposal facilities. (See also IB83010 -- Nuclear Waste Management and IB85214 -- Low-Level Waste Disposal).

Since the cancellation of the Clinch River Breeder Reactor project in 1983, DOE has been reorienting its nuclear research and development budget, particularly its breeder reactor program. Also a budget issue is DOE's investment in uranium enrichment plants (see also IB85050 -- The Department of Energy's Fiscal 1986 Budget; and IB84008 -- Nuclear Energy: Uranium Enrichment).

LEGISLATION

INTRODUCTION

H.R. 1799 (Fuqua)
Authorizes appropriations to the Department of Energy for civilian energy programs for fiscal years 1986, 1987, and 1988. Introduced Mar. 23, 1985. Reported from the Committee on Science and Technology, with amendment (H.Rept. 99-55, Part I) Apr. 22, 1985.

OIL

P.L. 99-64, S. 883
Amends the Export Administration Act of 1979 to set forth new provisions regarding national security export controls, short supply export controls, and export controls imposed for foreign policy reasons. Requires the Administration to study the consequences to economic and energy security of permitting various levels of North slope exports. Passed Senate Apr. 3, 1985. Passed House, amended, Apr. 16, 1985. Conference report filed in House June 25, 1985 (H.Rept. 99-180). Signed into law July 12, 1985.

EMERGENCY PREPAREDNESS

P.L. 99-58, H.R. 1699
Extends Titles I and II of the Energy Policy and Conservation Act. Requires a test drawdown and distribution of oil from the Strategic Petroleum Reserve. Introduced Mar. 25, 1985, and forwarded by Subcommittee on Fossil and Synthetic Fuels to Committee on Energy and Commerce, amended, Apr. 4, 1985. Passed House, amended, June 9, 1985. Passed Senate, amended, June 18, 1985. House agreed to Senate amendment June 27, 1985. Signed into law July 2, 1985.

P.L. 99-88, H.R. 2577
Supplemental Appropriations for FY85. Disapproves deferral of funds for SPR construction, and overturns $290 million of proposed deferral of oil-acquisition funds. Passed House, amended, June 12, 1985. Passed Senate, amended, June 20, 1985. Conference report filed in House (H.Rept. 99-236) July 29, 1985. House agreed to conference report July 31, 1985. Senate agreed to conference report Aug. 1, 1985. Signed into law Aug. 15, 1985.

NUCLEAR

P.L. 99-240, H.R. 1083
Amends the Low-Level Waste Policy Act to confer responsibility upon (1) each State for the disposal of low-level radioactive waste, generated within the State, either by itself or in cooperation with other States; and (2) the Federal Government for ensuring the safe disposal of federally generated high-level and low-level radioactive waste disposal facilities. Authorizes the States to enter into regional compacts to establish and operate regional low-level radioactive waste disposal facilities. Introduced Feb. 7, 1985; referred to more than one committee. Reported Oct. 22, 1985 from Committee on Interior and Insular Affairs with amendment (H.Rept. 99-314, Part I). Reported Dec. 4, 1985, from Committee on Energy and Commerce with amendment (H.Rept. 99-314, Part II). Passed House amended Dec. 9, 1985. Passed Senate amended Dec. 19, 1985. Signed into law Jan. 15, 1986.

H.R. 1[illegible]47 (Udall)
Amends the Atomic Energy Act of 1954 to revise licensing procedures for production and utilization facilities for nuclear material. Introduced Mar. 6, 1985; referred to more than one committee.

S. 836 (Simpson, by request)
Amends the Atomic Energy Act of 1954, as amended, to improve the nuclear power plant siting and licensing procedures, and for other purposes. Introduced Apr. 2, 1985; referred to Committee on Environment and Public Works.

CONSERVATION

S. 410 (Johnston)
Repeals provisions of the National Energy Conservation Policy Act which requires electric and gas utilities to offer comprehensive site-specific audit services to customers who are owners of multi-family dwellings and commercial buildings. Introduced Feb. 6, 1985; referred to Committee on Energy and Natural Resources. Reported to Senate from the Committee on Energy and Natural Resources with amendment (S.Rept. 99-94). Passed Senate, amended, July 29, 1985; referred to House Committee on Energy and Commerce July 31, 1985.

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MLC-015

RENEWABLE ENERGY RESOURCES AND ENERGY CONSERVATION

...Federal role in renewable energy development may be limited...

The Reagan Administration's "free-market" approach to energy development has led to a shift in program emphasis away from near-term market development and into long-range basic research. Substantial reductions in renewable energy R&D budget levels have accompanied the shift, with the budget dropping from $746 million to $180 million between FY81 and FY86.

As the R&D budget dropped, and the program moved away from commercialization projects, Federal tax credits for renewable energy investments grew in importance to the industry. With the credits now expired, however, the industry's future appears uncertain as it must compete against relatively low-cost conventional energy sources. The Senate Appropriations Committee in its report on the FY86 DOE appropriations bill (S.Rept. 99-110 to accompany H.R. 2959) expressed concern that the market for most solar and renewable energy technologies "has not been developed to the point where the private sector alone can be expected to carry forward with its development."

SOLAR ENERGY

The DOE solar energy R&D program carries out basic and applied research and exploratory technology development in six subprograms covering solar buildings energy systems, photovoltaic energy systems, solar thermal energy systems, biofuels energy systems (includes alcohol fuels), wind energy systems, and ocean thermal energy systems.

For FY86, the House approved a budget of $147.032 million for solar energy R&D, while the Senate allowance was $161.732 million. The conference reached a level of $157.232 million, the amount subsequently provided in P.L. 99-141, the FY86 Energy and Water Development Appropriation bill. The Gramm-Rudman-Hollings Emergency Deficit Control Act of 1985 (P.L. 99-177) is expected to reduce the FY86 mark by 3.8%, or to about $151 million.

In making its mark, the Senate Appropriations Committee said it considers it "essential that a viable solar and renewable energy research and development program be maintained in the Department of Energy and that the staff expertise be maintained to properly manage this type of effort. Continued basic research and development of solar and renewable energy is essential to maintain a balanced energy research program." (S.Rept. 99-110)

The Senate rejected the House bid to fund the Solar Energy and Energy Conservation Bank in FY86. The House proposed $15 million for the Bank but the Senate did not recommend any new funding. The Senate Appropriations Committee noted that the Bank has a large unutilized balance [about $35 million available in FY86]. It also noted that substantial additional resources are being provided for conservation improvements under other DOE and HUD programs.

The renewable energy and energy conservation tax credits expired on schedule on Dec. 31, 1985. Efforts to extend the credits fell short despite majority support for an extension. Industry and congressional supporters are pledged to work for a retroactive stop-gap measure in the second session that will continue the credits either as they existed before expiration, or at a reduced level as approved by the House of Representatives in the Tax Reform Act. Even with the Congress ready to work on a temporary (and retroactive) extension when it returns in January 1986, most solar firms are acting quickly to diversify their business. It is uncertain what the affect on the industry will be of even a temporary gap in the tax credit.

ALCOHOL FUELS

The Reagan Administration, upon taking office, proposed virtual termination of the extensive alcohol fuels program enacted in 1980 as part of the Energy Security Act. Congress only partially accepted the proposed cutbacks, and the alcohol fuels program has therefore continued to exist, on a reduced level.

Despite the cutbacks in the Federal program, sales of alcohol for fuel purposes have risen sharply in recent years, aided by the 6 cents per gallon exemption from the Federal excise tax on gasoline and by similar exemptions from some State taxes, particularly in the Midwest. Most of such sales are of ethanol in a 10% blend with gasoline; this blend had been popularly known as "gasohol," but the use of this term has largely been dropped for marketing reasons. The sales of such blends climbed from 750 million gallons in 1981 to 2,300 million (2.3 billion) gallons in 1982, to 4,330 million (4.33 billion) gallons in 1983, and to 5.7 billion gallons in 1984. The estimated total for 1985 is 7.35 billion gallons. (The alcohol used to make up these amounts of fuel would be one-tenth of these totals, i.e., 570 million gallons in 1984, etc.) Leading States in ethanol fuel sales during 1985 were Illinois, Ohio, Indiana, Florida, and Kentucky, in that order. In terms of market share, the leading States were Iowa, Nebraska, Kentucky, Kansas, and Indiana, in that order.

During 1980s, sales of methanol in blends with gasoline became significant for the first time, rising to over 200 million gallons per year. Methanol as an automotive fuel attracted congressional interest during the 98th Congress. Two bills were introduced to establish a national methanol policy (H.R. 4855, Sharp; H.R. 5075, Broyhill), and hearings were held by the House Energy and Commerce Committee. Bills promoting the use of methanol as an automotive fuel have also been introduced in the 99th Congress. (S. 1097, Danforth; H.R. 2955, Wise; H.R. 3355, Sharp and Broyhill).

Imports of alcohol for use as an automotive fuel became more controversial during 1985. Brazil is the world leader in alcohol fuels development, and all of its automotive fleet now operates either on pure alcohol or on alcohol-gasoline blends. Imports of alcohol from Brazil for fuel use were estimated at over 100 million gallons in 1984 and 1985. During 1985 a group of U.S. ethanol producers filed charges claiming that Brazil was illegally dumping ethanol in the United States at unfairly low prices. Brazil denies that these charges are true. The charges are being considered by the International Trade Administration of the Department of Commerce and by the International Trade Commission.

Another controversy relating to ethanol imports involves the Caribbean Basin Initiative (CBI). Under the CBI legislation enacted in 1983, the small countries of Central America and the Caribbean are allowed duty-free access to the U.S. market for products produced or "substantially transformed" there. Some corporations have announced plans to build facilities in CBI nations which would "upgrade" Brazilian ethanol by decreasing its water content. The Customs Service has ruled that this is a "substantial transformation," and that this ethanol therefore has duty-free status. This ruling has been challenged by U.S. producers.

The future of the excise tax exemption was considered as part of the tax reform legislation which passed the House in December 1985 (H.R. 3838). The Administration's proposal would have eliminated the tax exemption; however, the bill as passed by the House retains the exemption.

The alcohol fuels industry is looking to the phasedown of lead in gasoline as having the potential for a vast increase in the market for alcohol fuels, which could substitute for lead as an "octane booster."

GEOTHERMAL ENERGY

Broadly defined, geothermal energy is the heat of the earth, but for practical purposes it is only anomalously high thermal areas in the upper crust that geologists consider geothermal resources. The primary use of geothermal energy is to generate electricity. For this purpose, the United States currently leads the world with an installed geothermal electrical generating capacity of nearly 1,300 Mw. Most of the potentially attractive geothermal sites are on Federal lands and are available for geothermal prospecting and development under the Geothermal Steam Act of 1970 (P.L. 91-581). To further development of geothermal energy, Congress passed the Geothermal Research, Development, and Demonstration Act of 1974 (P.L. 93-410) which was subsequently amended (P.L. 96-294) in an attempt to accelerate the development and commercialization of geothermal energy. These measures provided for geothermal energy research and financial incentives for geothermal development and demonstration through loan and loan guarantee programs.

Another approach to further business and residential development of geothermal and other alternative energy technologies is through tax credits provided by the Energy Tax Act of 1978 (P.L. 95-618), and subsequently expanded by the Windfall Profits Tax Act (P.L. 96-223). Although the credit is available through Dec. 31, 1985, the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) effectively reduces the real value of the credit by approximately 20% by reducing the base upon which the credit can be claimed. As mentioned previously, legislation is under consideration in the 99th Congress to extend the Dec. 31, 1985 expiration date for the renewable energy investment credits.

Also at issue is whether groundwater heat pumps should qualify for residential energy tax credits. The question arises because of the ruling by the Internal Revenue Service under the Energy Tax Act, that for the purpose of residential tax credits, geothermal deposits are defined as having a temperature of 50 degrees Celcius (122 degrees F) or hotter. This makes systems which use lower temperature groundwater (such as groundwater heat pumps) ineligible for the 40% residential energy tax credit. Several people installed such systems prior to the IRS ruling of August 1980 (two years after passage of the Energy Tax Act) and some were even advised by the IRS that these systems would qualify for the tax credit.

Legislation has been reintroduced in the 99th Congress to resolve this problem by defining geothermal deposits as the heat of the earth at any temperature. However, this raises the larger question of heat pumps in general, the most common type of which is atmospheric and does not qualify for the energy tax credit.

Legislation to amend the Internal Revenue Code of 1954 to broaden the definition of geothermal energy for tax credit purposes includes H.R. 843 (Seiberling) and H.R. 1315 (Latta). In addition, among its other provisions, H.R. 2001 also redefines a geothermal deposit as the heat of the earth at any temperature.

Funding for the Department of Energy's Geothermal Program has steadily decreased from its peak level in 1979. Program goals continue to include the solution of immediate technical problems that directly assist industry, and support for longer-term research and development that private industry is unlikely to perform. The 1986 budget request, which includes $25.2 million for R&D and $0.072 million for the Geothermal Resources Development Fund, reflects an increased emphasis on projects that are "cost-shared" with industry both in the U.S. and abroad. In reporting the DOE authorization bill, the House Science and Technology Committee recommended no change to the Administration's budget request for geothermal energy (H.Rept. 99-54).

CONSERVATION RESEARCH AND INNOVATION

The DOE energy conservation R&D program conducts research and technology development in four areas: buildings, industry, transportation and multisector. DOE also conducts conservation grant programs for State and local governments, and it is responsible for several regulatory programs. The Reagan Administration continues to emphasize its preference for reliance on market response to unregulated energy price changes and the marketplace generally to conserve energy. This position has led it to seek further budget cuts and

For FY86, the House approved a budget of $184.887 million for conservation R&D, while the Senate allowance was $158.509 million. The conference on the Continuing Resolution (P.L. 99-190) reached a level of $178.561 million. The Gramm-Rudman-Hollings (G-R-H) Emergency Deficit Control Act of 1985 (P.L. 99-177) is expected to reduce the FY86 mark by 4.3%, or to about $170.882 million. [*Note:* The State and Local Assistance Program is the only non-R&D area which is included in the conservation program budget; however, it typically accounts for more than half of the total spending. Including this program, the budget totals for conservation become: House - $468.326, Senate - $436.587, Conference - $446.721, and G-R-H - $427.512.

Conservation program managers seem more concerned about an expected OMB rescission/deferral, which would reduce R&D appropriations from the $178.561 markdown to the Administration's original FY86 request of $140.075 million. Of even greater concern is OMB's passback for the FY87 budget request. Inside Energy reports that OMB is seeking a 60% cut from the FY86 level of $178.561 to $71.0 million. [OMB Proposal for DOE/Industry Sharing of Non-Nuclear R&D Costs, Inside Energy, Jan. 6, 1986, p. 8.] Of this amount, $41 million would be spent on programs and the remaining $30 million would be reserved for a "cooperative R&D venture pool."

The Continuing Resolution creates three new conservation program activities. One is a $7.5 million steel initiative to develop new technologies, which will increase the energy-efficiency and productivity of steel manufacturing processes. Second is a $1.0 million least-cost utility planning effort, which will investigate the potential for cost-effective conservation technologies to displace projected needs for powerplant construction. The third program is a $0.5 million effort to support technologies for U.S. territorial areas which use indigenous energy resources.

Perhaps the most prominent debate over conservation regulatory programs involves the Department of Energy's (DOE) issuance of a "No Standards" rule for appliance efficiencies. A challenge to DOE's methodology underpinning the rule was argued before a Federal appellate court in January 1985. The D.C. Court of Appeals overturned DOE's No Standards rule on July 16, 1985 (No. 83-1195). DOE decided not to appeal to the Supreme Court for a review of the lower court's decision. However, DOE does not expect to formulate a new proposed rule until 1988. Meanwhile, about 26 states have set standards which are now in effect. Also, legislation (H.R. 2876/S. 1360) has been introduced to direct DOE to establish "interim" standards for six types of appliances. A rulemaking for the interim standards is required within 6 months after the bill becomes law, and the standards would be set at the 1984 average efficiency levels.

Another debate has erupted over DOE's February 1985 announcement that the Nation's utilities could terminate the Residential Conservation Service (RCS) program services. *3/* This move is opposed by Chairman John Dingell of the House Energy and Commerce Committee and Chairman Edward Markey of the Committee's Subcommittee on Energy Conservation and Power, who argue on the basis of a June 3, 1985, General Accounting Office legal analysis (B-205365) that services are statutorily mandated to continue indefinitely.

Since February 1985, two bills (H.R. 929, H.R. 969) have been introduced to repeal both RCS and the Commercial and Apartment Conservation Service (CACS) programs; one bill (S. 410) would repeal CACS only. On July 29, 1985, S. 410 passed the Senate. In its amended form, S. 410 extends the RCS program through 1988 and directs GAO to perform an evaluation of RCS impacts. On Dec. 13, 1985, the House Subcommittee on Energy Conservation and Power marked up H.R. 969 and referred it to the full committee. The revised bill would terminate the CACS program, expand the RCS program to include audits of multi-family housing and allow States to formulate alternative plans for implementing residential conservation services. Further action on H.R. 969 is expected during the second session. The opponents of RCS and CACS argue that higher energy prices have spurred consumers to make energy saving investments and that these programs disrupt the effective functioning of the market without compensatory benefit. A primary component of their argument is that studies -- particularly DOE's RCS Evaluation Report -- show that the RCS program has not been cost-effective and needlessly burdens consumers, businesses and utilities. Advocates of RCS and CACS termination conclude that the same problems would materialize with CACS implementation. Supporters of RCS and CACS argue that the DOE did a poor job of implementing the RCS program and that the methodology of DOE's Evaluation Report is flawed severely. They stress that the State evaluations employing sound research methods -- such as those performed for Michigan, Minnesota and California -- show that RCS is cost-effective. Further, they argue that improved evaluation efforts could enhance cost-effectiveness.

The 99th Congress has acted on conservation legislation in several other areas. One bill, S. 727, became public law (P.L. 99-186) on Dec. 18, 1985. It allows gas utility holding companies to become part-owners of cogeneration facilities. Another bill, H.R. 2095, would extend daylight savings time. The House passed this bill, and the Senate Commerce Committee's Subcommittee on Science held a hearing on Oct. 31, 1985. Other conservation-related legislation is focused on: fuel cells, district heating, conservation tax credits, auto fuel efficiency standards, indoor air pollution, and regional power planning.

[See also CRS IB85130, Energy Conservation: An Overview of Policy Issues and Options; and CRS Report 85-109SPR, Energy Conservation Policy: A Review of Recent Developments and Some Options for Program Impact Research.]

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ENVIRONMENTAL PROTECTION

MLC-016

ENVIRONMENTAL PROTECTION AGENCY PROGRAMS: CONGRESSIONAL ACTIVITIES

...water and hazardous waste high on agenda...

The environmental protection activities of the 99th Congress concern legislation to reauthorize and amend existing statutes, plus proposals to fill perceived gaps in existing laws and oversight. High on the list of environmental issues is reauthorization of Superfund, which provides for cleanup of spills of hazardous substances and leaking hazardous waste dumps, and the Clean Water Act municipal wastewater treatment grant program. Key authorizations in both of these areas expired at the end of FY85. Congress' agenda also includes bills to reauthorize and amend the Safe Drinking Water Act, the Toxic Substances Control Act, the Clean Air Act, the Ocean Dumping Act, and the Federal Insecticide, Fungicide, and Rodenticide Act.

Two issues Congress is concerned about as possible "gaps" in existing Federal environmental protection statutes are groundwater contamination and compensation of pollution victims. Another high priority concerns the adequacy of Federal laws to deal with hazardous and toxic wastes in the environment -- an issue complex that incorporates consideration of compensation and groundwater protection, plus programs under the various pollution control statutes. At the same time, Congress is reviewing existing statutes for their adequacy and efficiency in providing a healthful environment and their implications for other national problems, such as energy development and economic growth.

The authorities and responsibilities of the Environmental Protection Agency (EPA) derive primarily from nine major statutes together with provisions from several other statutes. These statutory authorities, enacted and amended over the past 15 years, encompass programs and measures to protect and enhance the Nation's air, water, and land environment. Congress has regularly reviewed these programs and their implementation by EPA.

The public continues to support environmental protection measures. Yet policy deliberations on how to try to strike an appropriate balance between environmental and economic concerns have in part led to recent stalemate and inaction on several proposals to fine-tune existing laws.

By the end of the 98th Congress, authorization of appropriations for seven of the nine major laws administered by EPA had expired. Congress reviewed many of the existing laws, committees reported a number of bills, and several were passed by either the House or Senate. Yet, final legislative action occurred in only two areas: a 4-year extension and revision of the Resource Conservation and Recovery Act (P.L. 98-616) and appropriation of funds to EPA to administer current laws. (Although authorizations for other laws have expired, programs within these statutes have continued and have been funded by Congress.) Many of the issues debated in 1983 and 1984 have served as departure points for review by the 99th Congress. By the end of the first session, Congress had taken final action on one bill (FY86 funding for EPA), while one or both Houses had passed separate bills in four other areas (Superfund, water quality, drinking water, and ocean dumping).

The following text breaks down the environmental protection issues into 10 areas, which are briefly defined to put legislative proposals in context. The issues are treated in the following order:

1. Superfund
2. water quality
3. toxic substances in the environment
4. air quality
5. drinking water
6. groundwater quality
7. pesticides
8. ocean dumping
9. environmental research and development
10. EPA budget

(NOTE: A review of environmental protection activities of the 98th Congress, similarly broken down by issue, is available as IB83018.)

SUPERFUND

The Superfund program for cleaning up spills of hazardous substances and leaking hazardous waste dumps was created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The taxing authority that provides seven-eighths of the $1.6 billion fund expired Sept. 30, 1985; the other one-eighth comes from appropriations. There is general agreement that the program should be extended. Key questions are how large the fund should be for the next 5 years and how the revenues should be raised.

It is not really known how many sites need attention, nor how much cleanup will cost. A series of reports issued by EPA in December 1984 (the "Section 301(a) studies") concluded that a baseline of 1,800 sites would cost about $11.7 billion to clean up. Other estimates run as high as $100 billion. Given this uncertainty, much of the recent debate has focused on how fast EPA can efficiently spend the money. The agency claims that $1 billion per year is about the maximum, while others state that twice that amount could be spent effectively. For FY86, EPA requested and received through appropriations $900 million for Superfund. (For further information, see IB85034--Superfund: How Many Sites? How Much Money?)

The Senate passed H.R. 2005 (previously S. 51; S.Repts. 99-11 and 99-73) on Sept. 24, 1985. The House passed the bill (previously H.R. 2817; H.Repts. 99-253, Parts 1-5) on December 10. The conference is expected to take place early in 1986.

The Senate bill would raise $7.4 billion over the next 5 years by continuing the existing taxes on petroleum and feedstock chemicals, and by imposing a new 0.08 percent excise tax on manufacturers that is expected to yield $5.4 billion. The House rejected the manufacturers excise tax (which opponents call a value added tax), and instead significantly raise the taxes on chemicals ($2 billion) and petroleum ($3.1 billion). A new tax on the disposal of hazardous wastes would yield $2 billion, and general revenues would provide $1.6 billion. A small tax on gasoline would raise $850 million for a new program to clean up leaking underground storage tanks, and a tax on imported derivative chemicals would bring in $67 million. Interest and costs recovered from responsible parties are expected to yield $800 million, bringing the total to $10.4 billion over 5 years.

Other key issues to be resolved in conference are provisions dealing with a community's right to know whether companies are releasing dangerous chemicals, deadlines for Superfund cleanups, cleanup standards, a separate oil spill cleanup fund, the right of citizens to sue companies to force them to clean up dangerous sites, and the authority of EPA to grant companies releases from liability in exchange for voluntary cleanup actions. (For further information, see IB85132 -- Superfund Reauthorization: Issues for the 99th Congress.)

WATER QUALITY

The principal law governing pollution in the Nation's waterways is the Clean Water Act, which has the objective of restoring and maintaining the "chemical, physical, and biological integrity of the Nation's waters." Originally enacted in 1948, amendments in 1972 totally revised the Act (P.L. 92-500), providing its current shape and spelling out ambitious programs for water quality improvement now being put in place by industry and municipalities. Congress made certain fine-tuning amendments in 1977 (P.L. 95-217) and again reauthorized and revised portions of the law in 1981 (P.L. 97-117). Authorizations for other provisions expired in 1982, leading to renewed attention to clean water issues since then, but not yet resulting in enactment of amendments.

The Act could be said to consist of two major parts, one being the Title II provisions which authorize a Federal grant program to assist cities in constructing sewage treatment plants. The other major part is regulatory requirements, found throughout the Act, that apply to industrial and municipal dischargers, which place rigorous demands on those who are regulated to achieve higher and higher levels of pollution abatement under prescribed deadlines.

The initial years of the Act's implementation emphasized control of discharges of conventional pollutants (such as oxygen-demanding material and suspended solids) from discrete and identifiable industrial and municipal sources of pollution, most of which now are in compliance with the Act or on schedule to become so. Emphasis since 1977 has shifted to more difficult control of nonpoint sources (diffuse sources, from which pollutants run off the land, such as agriculture and forestry sites), and, especially, control of toxic substances from point and nonpoint sources -- heavy metals, pesticides, and other organic compounds.

Congressional efforts to reauthorize expired provisions of the Clean Water Act were unsuccessful in the 98th Congress, as were similar efforts in the 97th Congress. Although the House passed legislation in June 1984 (H.R. 3282), the Senate did not debate committee-reported bills (S. 431 and S. 2006) before adjourning in October 1984. The 99th Congress is considering many of the same areas of inquiry which were the focus of clean water review in 1983 and 1984, particularly implementation of the Act's toxic pollution control provisions and establishment of programs to control nonpoint source pollution. (For further information, see IB83030--Water Quality: Implementing the Clean Water Act.)

An additional issue of interest is the Act's program of aid to construct municipal sewage treatment plants, for which authorizations expire at the end of FY85. Whether this program should continue, be phased out, or be revised (possibly as loans, rather than grants) is being debated. An EPA Task Force issued a report early in 1985 that suggested continuing the program at the current $2.4 billion per year funding level through FY91 and phasing the program out by the end of FY94. However, the President's FY86 budget proposal seeks to phase the program out more quickly -- by 1990. (For further information, see IB83013 -- Clean Water: EPA Municipal Construction Grants Program.)

The Senate and House have passed bills to reauthorize the Act (S. 1128, passed by the Senate June 13, and H.R. 8, approved by the House July 23). However, because of other congressional priorities, final action on a reauthorization bill is not likely before February 1986. These bills include a number of similar provisions (such as establishment of nonpoint source pollution management programs, requirements for additional control of toxic waste discharges, and extension of industrial compliance deadlines). Both bills also would establish Water Pollution Control Revolving Funds to replace the Act's current sewage treatment grant program at the end of this decade. Under the proposed new program, States would receive capitalization grants from the Federal Government to establish loan funds for construction of sewage treatment facilities. Both bills would provide higher funding levels and more extended Federal aid for such projects than the Administration seeks. S. 1128 authorizes $18 billion in assistance through FY94 and H.R. 8 authorizes $21 billion through FY94; the Administration requested $6 billion through FY89, at which time the Federal program would cease. A key difference between the House and Senate bills is allotment of sewage treatment grant funds: H.R. 8 retains the State-by-State distribution formula in current law, while S. 1128 revises the formula to the benefit of a number of Western and Southern States.

TOXIC SUBSTANCES IN THE ENVIRONMENT

The Toxic Substances Control Act (TSCA) was enacted in 1976 to comprehensively address the risks presented by hazardous chemicals. Some, however, have been disappointed with TSCA's implementation, arguing that EPA has been too conservative in its interpretation of the statute and too slow to address the risks of existing and newly developed chemicals. The chemical industry generally supports TSCA's implementation to date, although there are some fears that new chemical innovation is being hindered by the Act's requirements. Major issues of debate include the perceived need for minimum data requirements for registering new chemicals, ways to encourage more testing of existing chemicals, and public access to information submitted to EPA under TSCA.

TSCA was designed to provide EPA with broad authority to 1) encourage or require testing of existing chemicals, those currently in widespread commercial production or use; 2) prevent future chemical risks through premarket screening and regulatory tracking of new chemical products; 3) control unreasonable risks of chemicals already known or as they are discovered; and 4) gather and disseminate information about chemical production, use, and possible adverse effects to human health and the environment.

During the 98th Congress, the committees of jurisdiction in both Houses held oversight hearings at which possible amendments were discussed, but no legislation was enacted.

In June 1984, the General Accounting Office (GAO) released two reports about EPA's implementation of TSCA: "Assessment of New Chemical Regulation Under the Toxic Substances Control Act" and "EPA's Efforts to Identify and Control Harmful Chemicals in Use." These reports were highly critical of EPA in a number of areas and made a variety of specific legislative and programmatic suggestions to improve Agency performance. These reports are likely to help frame the debate about possible amendments in the 99th Congress.

In December 1984, an accident at a pesticide plant in Bhopal, India, killed and injured thousands of nearby residents. Various congressional committees have investigated the implications of this accident for both domestic and foreign policies regarding the manufacture, use, transport, and trade of hazardous chemicals. (For more information, see IB85022 -- The Accident in Bhopal, India: Implications for U.S. Hazardous Chemical Policies.) Since TSCA is the primary statute which regulates the chemical industry in the United States, debate about these issues is likely to include discussion of TSCA's applicability for preventing or responding to such an accident in the United States. For example, H.R. 965, introduced in February 1985, would add provisions to TSCA regarding community rights to know about hazardous chemicals produced or stored in their jurisdiction, emergency response plans to chemical accidents, and liability for damages caused by accidental chemical releases. However, community right-to-know and emergency planning requirements were later included as part of the Superfund reauthorization in both the House and Senate (H.R. 2817 and S. 51).

AIR QUALITY

The authorizations for appropriations for the Clean Air Act (CAA) expired at the end of FY81, providing the past two Congresses with an opportunity to enact statutory amendments. Groups that expressed dissatisfaction with aspects of the CAA ranged from environmentalists to industry. Though the Senate reported out comprehensive reauthorization bills in the past two Congresses, no bill received Senate floor action. House action in both Congresses broke off in committee.

In the past 4 years, acid precipitation control, which is not now included in the CAA, was the most actively debated air quality issue. Points of contention included the nature and urgency of the problem and who should pay the costs of emission reductions. The Administration supported an accelerated research program, maintaining that imposing costly control actions was premature. Congressional proposals reflected two basic approaches. Representing the first were bills which mirrored the Administration's position of accelerated and expanded research into the causes and effects of acid precipitation; representing the second approach were proposals calling for a specific amount of emission reductions, often combined with a financing mechanism. Bills introduced in the 99th Congress to date mirror those of the 98th Congress. (For further information, see IB85008 -- Acid Rain: Issues in the 99th Congress.)

A second major issue addressed in the 98th Congress in particular was implementation of Section 112 of the CAA, control of hazardous air pollutants. The slowness with which EPA had carried out the requirements of this Section, thus possibly neglecting to protect public health, raised considerable concern and was the subject of congressional oversight. It also motivated a number of States and municipalities to develop their own regulatory programs for toxic substances.

Proposals to increase the effectiveness of Section 112 to better protect public health fell into two categories: one type would have rendered the Section's regulatory requirements and their deadlines more flexible, permitting consideration of risk, costs, and other societal impacts. A second set of congressional proposals was advanced by those who felt that stricter statutory provisions are needed to eliminate undue delays in effective regulation. Supported by environmental groups and many Members, the main feature of these proposals was automatic listing and regulation of substances identified as hazardous if EPA fails to act within specific deadlines. In the 99th Congress to date, the principal bill addressing toxic air pollutant control is H.R. 2576, the Toxic Release Control Act, introduced May 22, 1985. The proposed bill would repeal Section 112 of the Clean Air Act; require EPA to regulate 89 chemicals; set up a new program aimed at preventing chemical leaks into the air; and establish a Federal course of action for persons injured by hazardous air emissions. The House Subcommittee on Health and Environment held a hearing on June 11 to discuss details of this proposal. (For further information, see archived MB84212 -- Hazardous Air Pollutants.)

The third major issue was motor vehicle emission control. The continuing price differential between leaded gasoline (which is less expensive) and unleaded gasoline (which is more expensive) has resulted in increased misfueling and in tampering with the emission control equipment of cars that use unleaded fuel only. Aggravating the situation, in the opinion of critics of the Agency, have been EPA's repeated extensions of attainment deadlines to meet the prescribed 90% reduction of auto-related pollutants and the Agency's delays, until Mar. 15, 1985, of heavy-duty vehicle controls; only cars and light trucks are currently subject to increasingly stricter controls.

The new heavy-duty vehicle rules, moreover, retain permissible emissions at 1980 levels and propose a system of noncompliance penalties instead of meeting emission limitations if a manufacturer lacks the technological capability to meet such standards.

Congressional proposals in the 98th Congress focused mainly on setting selected new attainment deadlines, tightening anti-tampering provisions, and banning the sale of leaded gasoline after a certain date.

Major issues in the 99th Congress are similar to those in the previous two Congresses. An additional issue which has emerged is indoor air pollution, the regulation of which is currently not covered by the outdoor air quality-oriented CAA requirements. S. 1198 and H.R. 2101 would establish in EPA a research program on indoor air quality. P.L. 99-160 (FY86 appropriations for EPA) includes $3.5 million for indoor air pollution R&D, with $1.5 million earmarked for radon pollution research. (For further information, see IB84005 -- Clean Air Act: An Overview.)

DRINKING WATER

Since the Safe Drinking Water Act (P.L. 93-523) was enacted in 1974, Congress has not legislated major changes to the law, but it has conducted oversight of implementation by EPA. The 96th Congress reauthorized the Act (P.L. 96-63) and enacted amendments that extended certain of the Act's deadlines (P.L. 96-502). A number of the law's provisions expired at the end of FY82, including State program grants, but Congress did not enact reauthorizing legislation during the 97th or 98th Congresses.

In the 99th Congress, both the House and the Senate proponents have focused proposed drinking water legislation on ways to require EPA to promulgate drinking water standards more promptly and to protect potable groundwater supplies (see below). Both the principal bills to amend the Safe Drinking Water Act, S. 124 and H.R. 1650, would require EPA to set standards for several priority contaminants and to promulgate these by specified deadlines. Although both bills seek to limit the discretion that the EPA Administrator has for not promulgating standards, the House bill would lessen this discretion by requiring the Agency either to promulgate regulations or publish a finding that after weighing available evidence, no "rational basis" exists to believe that the contaminant may have adverse effects. No similar provision exists in the Senate bill. S. 124 passed the Senate on May 16; H.R. 1650 passed the House on June 17. A conference to resolve the differences in the House-Senate bills has been delayed because of other congressional priorities.

Two other bills to amend the Safe Drinking Water Act, H.R. 3579 and S. 1197, would prohibit the use of lead pipes or lead solder in public water systems.

(For further information, see IB83006 -- Safe Drinking Water, and MB83238 -- Underground Injection of Wastes.)

GROUNDWATER QUALITY

Groundwater is a vitally important natural resource in the United States: over half of the populace relies on groundwater for its primary source of drinking water. More generally, groundwater supplies 23% of the fresh water used for all purposes in the United States, including 40% of all water used for irrigation. Actual and threatened pollution of the underground aquifers has only begun to be understood in the last decade.

EPA involvement in groundwater protection is restricted to the drinking water aspects of the resource; groundwater usage for irrigation comes under the administration of the Department of the Interior.

Although several environmental laws provide elements of groundwater protection, no single piece of legislation serves to protect this resource exclusively. Although EPA administers over a half dozen laws that address aspects of groundwater protection, critics have questioned whether these efforts have been adequately coordinated. In an effort to integrate administrative activities regarding groundwater protection, EPA instituted a groundwater protection strategy in August 1984.

Several groundwater-related proposals were introduced during the 98th Congress, and some of these were enacted into law with the passage of amendments to reauthorize and amend the Resource Conservation and Recovery Act (P.L. 98-616). These provisions included establishment of a National Groundwater

Commission, regulation of underground storage tanks, and restrictions on undergound injection of wastes into and above aquifers.

The House and Senate bills to amend the Safe Drinking Water Act contain some groundwater protection provisions. H.R. 1650, which passed by the House on June 17, provides $20 million in 50/50 matching grants to States for groundwater protection plan development and $10 million in 50/50 matching grants for States to develop plans to protect sole source aquifers. S. 124, which passed the Senate on May 16, provides for a demonstration grant program for up to $4 million per project from a $20 million fund to study the protection of sole source aquifers. A conference on these bills is expected in 1986.

Other House legislation that would afford protection of groundwater includes H.R. 2005, which amends the Superfund law in response to the growing concern about leaking underground storage tanks contaminating groundwater. The bill would make spills of petroleum products eligible for Superfund response, and it would amend the Solid Waste Disposal Act to give the EPA Administrator the authority to order owners of leaking petroleum tanks to take corrective action. If owners cannot be found or do not take responsibility, EPA would be given the authority to take corrective actions and then seek reimbursement. This program would be funded through $850 million over 5 years. H.R. 8, which amends the Clean Water Act, contains several groundwater-related provisions. It passed the House on July 23, 1985.

Three groundwater-specific protection bills were introduced in late 1985. S. 1836 and H.R. 3808 are identical bills that would protect groundwater through State standards, planning, and protection programs. The third bill, H.R. 3906, would provide for a U.S. Geological Survey assessment of the Nation's groundwater resources. (For further information, see IB83091 -- Groundwater Contamination and Protection.)

PESTICIDES

Pesticides are chemicals used to control many kinds of pests: insects that attack crops, destroy materials, and serve as disease vectors; fungi and other disease-causing organisms; nematodes; and weeds, among others. They have become major components of agricultural production and of health protection. Against their benefits, certain hazards must be weighed. Pesticides may be highly toxic, some are persistent in the environment, and many pose risks to nontarget organisms.

Congress completely rewrote the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 1972 (P.L. 92-516). The 1972 law updated the 1947 FIFRA; the 1972 amendments reflected concerns about the unintended health and environmental effects of pesticides which were discovered since the 1947 law was enacted. According to FIFRA, pesticide regulation has three basic components: 1) the Environmental Protection Agency (EPA) must grant a Federal approval of pesticide products before they can be used (this licensing is called a "registration" of the product); approval is to be based on voluminous health and safety data which is required to establish that the pesticide will not cause "significant adverse effects" to health or the environment; 2) pesticides registered before the newer requirements were in place must be reviewed to see if they meet current health and safety standards (this is called "reregistration"); and 3) EPA has authority to restrict or ban uses of pesticides which have adverse effects on health or the environment.

EPA's difficulties in carrying out the provisions of FIFRA and the controversies inherent in balancing benefits and risks of pesticide use have led Congress to limit authorizations for the Act to one or two years, thus assuring continued oversight and increased sensitivity of the Agency to congressional concerns. Underlying these controversies are conflicting views of how well EPA is implementing FIFRA -- some seeing EPA's regulations as too strict and adversely affecting agriculture and the economy, while others view them as too lenient and threatening to health and the environment. Regularly, key issues include the scientific adequacy of EPA's decisions, the speed with which EPA is registering or reregistering pesticides, and the proper balancing of costs, risks, and benefits.

FIFRA was last reauthorized in 1983 for one year (P.L. 98-201). Little legislative activity took place in 1984, in part due to the controversy surrounding the pesticide ethylene dibromide (EDB). The 99th Congress has shown renewed interest in FIFRA.

The House Agriculture Committee delayed hearings on FIFRA, expecting an Administration bill. It was to be presented at a Department Operations, Research, and Foreign Agriculture Subcommittee (DORFA) hearing on Apr. 18, 1985. Nonetheless, the Administration position at the hearing was that amendments were necessary at this time.

On May 14, 1985, Mr. Bedell (Chairman of the Subcommittee) and Mr. Roberts (ranking minority Member) introduced H.R. 2482, which was considered a bill originally drafted by EPA but which was not approved as the Administration position. It was introduced, according to its sponsors, as a starting point for the Subcommittee effort to amend FIFRA. On May 20 and 21, 1985, the Subcommittee held hearings on this and other bills.

On May 22, 1985, Representative George Brown, a member and former chairman of DORFA, introduced H.R. 2580, which includes proposals for comprehensive changes to FIFRA which are supported by a large coalition of environmental, consumer, and labor groups. In the Senate, the bill has been introduced as S. 1303 (Proxmire).

Through the summer of 1985, prospects for significant congressional action on FIFRA were unchanged. However, on Sept. 11, 1985, an agreement was announced by representatives of 42 consumer and environmental groups and the major producer trade group, the National Agricultural Chemical Association (NACA), representing 100 pesticide companies. The agreement covered a number of historically controversial FIFRA issues, including reregistration, conditional registration, invalid and fraudulent data, public access to submitted health studies, community right-to-know, pesticide exports, inert ingredients, and pesticide cancellation proceedings. At this time no specific legislative language has been drafted which reflects this agreement. Also, other affected groups such as those representing farmers, pesticide formulators, or farmworkers, have not been involved up to this time. However, once specific legislative language has been drafted, it is expected that such language will be introduced and quickly become the major legislative vehicle for amending FIFRA during the second session of the 99th Congress.

Meanwhile, as part of the farm bill, Congress included a simple one-year reauthorization of FIFRA (P.L. 99-198). This action is not expected to affect attempts to amend FIFRA significantly in 1986.

OCEAN DUMPING

Authorizing legislation covering the intentional disposal of waste materials into the marine environment expired in 1982. For the past 3 years Congress has attempted to reauthorize the program. The House Committees on Merchant Marine and Fisheries, and Public Works and Transportation have reported legislation (H.R. 1957) to reauthorize the ocean dumping permit program. In addition, the legislation would terminate the ocean disposal of harmful sewage sludge disposal and establish a plan to restore the New York Bight.

Under the authorizing legislation, the 1972 Marine Protection Research and Sanctuaries Act (33 U.S. 1404-1444), EPA has authority to permit disposal of some substances, so long as they are not harmful to the marine environment or humans. Disposal of other substances is banned by the Act, including radiological, chemical and biological warfare agents, high level radioactive wastes, and known carcinogens.

In the years since the Act's passage, there have been mixed results. In some categories, like industrial waste disposal and solid waste disposal, there have been substantial reductions in the amounts disposed. But for sewage sludges and dredge spoils, there have been few successes. Although many municipalities ceased ocean disposal, a few in the New York/ New Jersey area continue the practice, with the result that the amount of ocean disposed sewage sludges continues to grow. On Apr. 2, 1985, EPA ordered New York City and some suburbs to discontinue using the traditional 12-mile New York Bight dumpsight and use the 106-mile dumpsite instead. For dredge spoils, which comprise over 90% of all ocean disposed substances, there has been little success in reducing the amount dumped due to difficulties in obtaining alternative sites. Land sites have grown increasingly more expensive and public opposition to such sites has become a major public policy consideration. There appears to be more pressure now to not only continue but also perhaps to expand many ocean dumping practices as land siting becomes more complex.

A related issue is the use of vessels to incinerate toxic chemical waste at sea. (For further information, see IB85131 -- Toxic Waste Incineration at Sea.) Regulations on incinerating at sea were proposed on Feb. 28, 1985, and regular commercial operations could begin by mid 1986. Some opposed this operation, citing lack of sound data and possible threats to human health and the environment. Some also have proposed reviewing the disposal of low level radioactive wastes which are growing in number and present special difficulties for land disposal. For Congress, the issue seems to be a reassessment of the current ocean disposal policy which discourages the practice. Should the Nation pursue this policy or alter the standards by which substances and ocean sites are evaluated? Do policymakers have enough data at their disposal to adequately identify the impacts of ocean dumping activities? Are the oceans given special protective consideration and is the public now demanding the same consideration for land? These are some of the questions remaining in the debate over an appropriate ocean dumping policy.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT

Environmental R&D conducted by EPA is annually authorized separately from the Agency's other authorities. Authorization bills have been enacted only irregularly, although funds have been appropriated every year as part of EPA's regular budget appropriations bill. Two issues have always dominated environmental R&D: the appropriate level of funding, and the management of the program -- particularly with respect to planning and the adequacy of basic research. From time to time, these authorizations also specifically address related issues such as environmental monitoring.

In the first 2 years of the Reagan Administration, funding became the dominant issue, with EPA's R&D program bearing some of the Agency's biggest budget cuts. The Administration has sought to cut general long-term research and stressed specific short-term research related to regulation. Although Congress appropriated more funds than requested by the Administration, environmental R&D still shrank from $356 million in FY81 to $233.5 million in FY83. Energy R&D was particularly hard hit, being reduced by two-thirds during the period.

Many questioned the logic of these cuts and argued that if regulations were to be based on sound science, research deserved more support. The levels of funding have begun to rise, to $250 million for FY84, $305 million for FY85, and $325 million requested for FY86. Changes for FY86 include a $23 million increase for acid rain, an $8.5 million increase for hazardous wastes, and a $7.6 million decrease for exploratory research centers.

No legislation to authorize EPA's R&D was enacted in the 98th Congress.

In the 99th Congress, House and Senate committees have reported bills to authorize appropriations for EPA's research and development activities for FY86. H.R. 2319 would provide $324.8 million (H.Rept. 99-99). while S. 1144 would provide $327.6 million (S.Rept. 99-58), at program levels requested by the President for FY86. H.R. 2319 specifies funding for several R&D areas, including indoor air quality and demonstration of limestone injection multistage burner (LIMB) technology to control nitrogen oxide emissions.

Other R&D legislation in the 99th Congress is program specific, such as H.R. 1295 and S. 1039 (bills to require research on ocean incineration of toxic wastes); and S. 1198 and H.R. 2101, concerning indoor air quality research (the latter measure was incorporated in H.R. 2319 during consideration by the Science and Technology Committee).

EPA's BUDGET

On Nov. 25, 1985, the President signed the HUD-Independent Agencies Appropriations Bill for FY86 (P.L. 99-160, H.R. 3038), which includes EPA's FY86 funding. The $1.49 billion enacted for EPA's operating programs was $122 million more than requested by the President. Congress appropriated $900 million, 45% more than in FY85, for the Superfund program. However, no funds were appropriated for the sewage treatment construction grants program, pending reauthorization of the Clean Water Act.

Equally significant for EPA's FY86 budget is the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Dec. 12, 1985). Designed to reduce the deficit by $11.7 billion in FY86, this new approach could involve the sequestering of FY86 funds by Mar. 1, 1986. The exact figure will not be known until the Congressional Budget Office and the Office of Management and Budget assess the overall economic picture. Whether this sequestration of funding at EPA would be across the board or assigned to particular programs remains to be seen. But, some reduction by Mar. 1, 1986, seems a certainty.

In enacting the FY86 funds for the EPA, Congress earmarked funding in certain key areas. The largest increase earmarked was for the school asbestos program (+$46 million). For regulatory efforts for hazardous waste (+$6 million) and hazardous air pollutants (+$4.5 million) Congress increased funds. Congress decreased overall acid rain research funding by $9 million while increasing funding by $5 million for the limestone injection multistage burner (LIMB) project. Other research efforts which were the object of increases include indoor air pollution (+$3.5 million), hazardous waste/groundwater research (+$3 million) and EPA's research centers (+$4 million).

While the immediate focus will be on the possible sequestering of FY86 funding, the FY87 EPA budget will be forwarded to Congress at approximately the same time. It is expected to contain decreased funding for the EPA in order to meet the deficit reduction target for FY87.

LEGISLATION

SUPERFUND

H.R. 2005 (Jones, J.)

Social Security Minor and Technical Changes Act of 1985. Introduced Apr. 4, 1985. Passed House May 14. Text of S. 51 inserted by Senate in lieu of Social Security language Sept. 24, 1985; text of H.R. 2817 inserted by House Dec. 10, 1985.

H.R. 2817 (Eckart)

Superfund Amendments of 1985. Amends and reauthorizes CERCLA for 5 years. Introduced June 20, 1985; referred to and reported from Committees on Energy and Commerce, Public Works and Transportation, Ways and Means, Judiciary, and Merchant Marine and Fisheries. (H.Rept. 99-253, Parts 1-5). Passed House, amended, Dec. 10, 1985; text inserted in H.R. 2005.

S. 51 (Stafford)

Superfund Improvement Act. Amends and reauthorizes the Superfund for 5 years. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Reported Mar. 18, 1985 (S.Rept. 99-11). Referred to Committee on Finance Apr. 15, 1985. Reported, amended, May 23, 1985

(S.Rept. 99-73). Referred to Committee on Judiciary May 24, 1985; discharged June 14, 1985. Passed Senate, amended Sept. 24, 1985; text inserted in H.R. 2005.

S. 1920 (Lautenberg)
Extends Superfund taxing authority to Mar. 1, 1986, beginning retroactively on Oct. 1, 1985. Introduced Dec. 10, 1985; referred to Committee on Finance.

WATER QUALITY

H.R. 8 (Roe)
Water Quality Renewal Act of 1985. Amends and reauthorizes the Clean Water Act for 4 years. Introduced Jan. 3, 1985; referred to Committee on Public Works and Transportation. Subcommittee hearings held Apr. 25 and 30. Approved by subcommittee May 21. Approved by committee May 22. Reported July 2 (H.Rept. 99-189). Passed House, amended, July 23 (340-83).

S. 53 (Stafford)
Clean Water Act Amendments of 1985. Amends and reauthorizes the Clean Water Act for 4 years. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985. See S. 1128 for details.

S. 652 (Chafee)
Amends and reauthorizes the Act through FY89. Includes provisions to establish Water Pollution Control Revolving Funds program for wastewater treatment construction. Introduced Mar. 7, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985. See S. 1128 for details.

S. 793 (Chafee, by request)
Amends and reauthorizes the Act. Includes sections to authorize 10-year discharge permits, extend certain industrial compliance deadlines, and terminate the Title II construction grants program by FY89. Introduced Mar. 29, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985.

S. 1128 (Dole)
Provides reauthorization of the Clean Water Act for FY86-89. Also reauthorizes Title II construction grants assistance through FY90, establishes new program of Water Pollution Control Revolving Funds through FY94. These funds to be distributed under revised State-by-State allotment formula. An original bill reported by the Environment and Public Works Committee May 14, 1985 (S.Rept. 99-50). Considered by Senate June 12-13 and passed, amended, June 13 (94-0).

TOXIC SUBSTANCES IN THE ENVIRONMENT

H.R. 638 (Barnes)
Restricts export of goods determined to be public health hazards. Introduced Jan. 24, 1985; referred to Committee on Foreign Affairs.

H.R. 965 (Florio)
Amends the Solid Waste Disposal Act and the Toxic Substances Control Act to prevent releases of toxic and hazardous substances which are presently not adequately controlled; establishes a community right to know of the risks associated with hazardous substances to which they may be exposed; and protects the rights of individuals exposed to hazardous substances. Introduced Feb. 6, 1985; referred to Committee on Energy and Commerce.

AIR QUALITY

H.R. 967 (Florio)
Amends the Clean Air Act to control emissions of hazardous air pollutants from stationary and mobile sources. Introduced Feb. 6, 1985; referred to Committee on Energy and Commerce.

H.R. 1030 (Conte)
Requires reduction of S02 emissions from electric utilities of 12 million tons within 10 years. Costs of reductions to be met through a fee on electrical generation to be distributed to the States for implementation of program under subpart 2 of the bill. Introduced Feb. 7, 1985; referred to Committee on Energy and Commerce.

H.R. 1162 (Green)
Requires reduction of S02 emissions from electrical utility plants by 1993 to 10 million tons below S02 emissions in 1980. States are to plan and implement S02 emission reductions from existing sources. Introduced Feb. 20, 1985; referred to Committee on Energy and Commerce.

H.R. 2576 (Wirth)
Toxic Release Control Act. Repeals Section 112 of the Clean Air Act; requires EPA to regulate 89 chemicals; establishes new comprehensive Federal control program. Introduced May 22; referred to Committee on Energy and Commerce.

S. 52 (Stafford)
Acid Rain Control Act of 1985. Requires a 10-million ton reduction of sulfur dioxide emissions in the 31-State region of the Eastern United States over a 10-year period. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works.

S. 283 (Mitchell)
Acid Deposition Control Act. Require 10 million-ton reduction in sulfur dioxide emissions within 10-year period. Introduced Jan. 24, 1985; referred to Committee on Environment and Public Works.

S. 503 (Proxmire et al.)
Contains a two-phase program to reduce S02 emissions by 10 million tons over 13 years in a 31-State region. Introduced Feb. 18, 1985; referred to Committee on Environment and Public Works.

DRINKING WATER

H.R. 1650 (Madigan)
Safe Drinking Water Act Amendments. Includes the requirement that States prepare comprehensive groundwater management plans, and allows sole source aquifer areas to receive grants for special protection activities. Introduced Mar. 21, 1985; referred to Committee on Energy and Commerce. Referred Mar. 26, 1985, to Subcommittee on Health and the Environment. Subcommittee hearing held May 1; bill marked up and reported May 2. Full committee considered, marked up, and reported bill May 15 (H.Rept. 99-168). Passed House June 17.

S. 124 (Durenberger)
Safe Drinking Water Act Amendments. Reauthorizes SDWA and provides further protection of aquifers and tighter regulation of underground injection of hazardous wastes. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Hearing held Mar. 21, 1985, by Subcommittee on Toxic Substances and Environmental Oversight; bill marked up and reported May 2. Full committee considered, marked up, and reported the bill May 15 (S.Rept. 99-56). Passed Senate May 16.

S. 1197 (Bradley)/H.R. 3579 (Lent)
Amends the Safe Drinking Water Act to prohibit the use of lead pipes or lead solder in public water systems. S. 1197 introduced May 22, 1985; referred to Committee on Environment and Public Works. Hearing held May 23. Incorporated into S. 51. H.R. 3579 introduced Oct. 17, 1985; referred to Committee on Energy and Commerce and to Committee on Veterans' Affairs.

GROUNDWATER

H.R. 360 (Johnson)
Authorizes EPA to make grants for providing alternative water supplies to replace contaminated groundwater. Introduced Jan. 7, 1985; referred to Committee on Energy and Commerce. Incorporated into H.R. 8.

H.R. 3906 (Gejdenson)
Provides for the assessment by the U.S. Geological Survey of the quality of the Nation's groundwater and surface water resources. Introduced Dec. 11, 1985; referred to Committee on Interior and Insular Affairs.

S. 1836 (Mitchell)/H.R. 3808 (Bustamante)
Provides for the protection of groundwater through State standards, planning, and protection programs. S. 1836 introduced Nov. 7, 1985; referred to Committee on Environment and Public Works. H.R. 3808 introduced Nov. 21, 1985; referred to Committee on Energy and Commerce, Committee on Interior and Insular Affairs, and Committee on Public Works and Transportation.

PESTICIDES

H.R. 2355 (Bedell)
Extends the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for one year. Introduced May 6, 1985; referred to Committee on Agriculture. Reported May 15, 1985 (H.Rept. 99-127).

H.R. 2482 (Bedell)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes. Introduced May 14, 1985; referred to Committee on Agriculture.

H.R. 2580 (Brown, G.)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act to better protect the public from the hazards of pesticides, and for other purposes. Introduced May 22, 1985; referred to Committee on Agriculture.

S. 309 (Proxmire)
FIFRA Reform Act. Amends and revise FIFRA, including limiting emergency exemptions, encouraging market removal of dangerous pesticides, and limiting secret data in the registration process. Introduced Jan. 28, 1985; referred to Committee on Agriculture.

S. 1303 (Proxmire)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act to better protect the public from the hazards of pesticides, and for other purposes. Introduced June 17, 1985; referred to Committee on Agriculture, Nutrition, and Forestry.

OCEAN DUMPING

H.R. 1957 (Mikulski)
Ocean Dumping Amendments of 1985. Reauthorizes the Ocean Dumping Act for FY86 and FY87. Terminates harmful municipal sludge dumping and establishes a New York Bight Restoration Plan. Introduced Apr. 3, 1985. Reported from the Committee on Merchant Marine and Fisheries (H.Rept. 99-107, Part 1) May 15, 1985. Reported from Committee on Public Works and Transportation (H.Rept. 99-107, Part 2) June 19, 1985. Passed House Dec. 10, 1985.

EPA's BUDGET

P.L. 99-160, H.R. 3038
HUD-Independent Agencies Appropriation Bill. Authorizes appropriations for FY86 for the Environmental Protection Agency. Reported from the House Committee on Appropriations (H.Rept. 99-212) July 18, 1985. Passed House July 25, 1985. Reported from Senate Committee on Appropriations (S.Rept. 99-129) Aug. 28, 1985. Passed Senate Oct. 18, 1985. Conference report (H.Rept. 99-363) approved by both House and Senate Nov. 13, 1985. Signed into law Nov. 25, 1985.

Environmental Protection Section

FINANCIAL AND FISCAL AFFAIRS

MLC-017

FINANCIAL INSTITUTIONS' COMPETITION AND REGULATION: CURRENT LEGISLATIVE ISSUES

...reexamination of statutory arrangements ..

Rapid developments in the financial system are prompting a reexamination of statutory arrangements for the financial services industry and its regulators. Among the questions before the 99th Congress are whether firms offering deposit services should be able to engage in a broad range of financial and commercial services, whether the structural arrangements of the Federal regulatory agencies for depository financial institutions could be improved, and whether the Federal deposit insurance mechanism needs to be amended.

Laws enacted in 1985 include P.L. 99-120 and P.L. 99-222. P.L. 99-120 extends certain provisions of the Garn-St Germain Depository Institutions Act of 1982 to Apr. 15, 1986. The provisions which have been extended give the Federal financial regulatory agencies various authorities to aid in resolving problem-depository-institution cases. P.L. 99-222 makes all entities that exercise fiduciary power and hold stock on behalf of customers subject to regulations of the Securities and Exchange Commission for processing proxy materials. The House Banking Committee has also reported legislation dealing with "non-bank" banks, interstate banking, and expedited funds availability.

LEGISLATION

P.L. 99-120, H.J.Res. 393
Provides for the temporary extension of certain programs relating to housing and community development, and for other purposes. Signed into law Oct. 8, 1985.

P.L. 99-222, H.R. 1603
Official title as introduced: Shareholder Communications Act of 1985. Amends the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

H.R. 20 (St Germain)
Banking Definition Act of 1985. Amends the definition of a bank for purposes of the Bank Holding Company Act of 1956. Introduced Jan. 3, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, June 18, 1985 (H.Rept. 99-175).

H.R. 2443 (St Germain)
Expedited Funds Availability Act. Limits the number of days a depository institution may restrict the availability of funds which are deposited in any account. Introduced May 8, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, Nov. 26, 1985 (H.Rept. 99-404).

H.R. 2707 (St Germain)
Authorizes certain interstate acquisitions of depository institutions. Introduced June 11, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, June 18, 1985 (H.Rept. 99-174).

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IB85020

FOREIGN POLICY AND ASSISTANCE PROGRAMS

MLC-018

AFRICAN FOOD PROBLEMS: U.S. RESPONSE

Africa's food situation in 1986 is much better than in 1985 when a continent-wide drought affected some 20 countries in an arc extending from the Sahel of West Africa, through the horn of East Africa, and into Southern Africa. Many countries in Africa are experiencing record crops. Sudan and Ethiopia, with good crops, will require some relief supplies because of the continued presence of displaced people in refugee camps. A major difficulty is that surpluses in some countries such as Zimbabwe or in regions of countries such as the Eastern Sudan cannot be easily moved to deficit countries or regions. Despite favorable weather conditions this year, long-run food problems remain and most Africans still do not receive a nutritionally adequate diet. In the 99th Congress second session, attention is expected to focus on such underlying food problems as rapid population growth, inappropriate economic policies, fragile and deteriorating natural resources, stagnant technologies, and weak institutions serving the agriculture sector and rural people.

Policy issues

While there is wide agreement on the need for the United States to provide a substantial share of the famine relief going to Africa, there is debate over the size and direction of long-term U.S. efforts to promote food production in Africa. Some observers strongly believe that the long-term solution to Africa's famine problem lies in policy reforms that must be undertaken by the African governments themselves in order to boost the output of African small farmers. From this perspective, U.S. economic assistance can do only a limited amount to free Africa from the famine threat. Another view, however, is that the United States should become much more deeply involved than it is today in promoting the development of African agriculture. President Reagan has proposed a "Food for Progress" program that would be used to encourage African governments to undertake agricultural policy reforms.

Some country-specific food aid issues have also been raised. The sincerity of Ethiopia's commitment to feeding all its hungry people has been particularly controversial.

U.S. response

The Food for Peace program (P.L. 480) is the primary vehicle for food aid to Africa, with most U.S. assistance provided under Title II of the program. The debate in Congress on the amount of food aid needed for Africa has centered on Title II. Title II aid consists of regular and emergency food donations, including programs for feeding mothers, infants, and children as well as assistance to school and other institutional food programs. U.S. Agency for International Development (AID) and the U.S. Department of Agriculture jointly administer the program. The United States has also assisted Africa in confronting the famine with non-food aid provided through its refugee relief and disaster assistance programs.

As of April 1985, U.S. assistance in response to the African famine -- including food and non-food aid -- totaled $935.8 million. Congress enacted two laws (P.L. 99-8 and P.L. 99-10) that provide funds to help meet Africa's estimated emergency food needs.

The Budget Deficit Reduction Act of 1985 (P.L. 99-177) could result in a reduction in the 1986 appropriations for food aid provided under P.L. 480, but how this would affect the allocation of food aid to African countries is not clear at this writing.

Because the African food situation is so much better this year than last, no bills calling for supplemental appropriations for emergency relief food in Africa were introduced in the last half of 1985.

LEGISLATION

P.L. 99-8, S. 689

Providing the same amounts for African famine relief as H.R. 1096, but containing no provisions related to emergency relief for U.S. farmers. Called up by unanimous consent and passed Senate Mar. 19, 1985; passed House Mar. 21, 1985; signed into law by the President (P.L. 99-8) Apr. 2, 1985.

P.L. 99-10, H.R. 1239

Makes urgent supplemental appropriations of $802.5 million in emergency famine relief to Africa, including $400 million in P.L. 480 Title II food assistance (permits up to $100 million of this amount to be used to finance in country food and distribution); $137.5 million for emergency relief and recovery assistance; $37.5 million in refugee assistance program and an additional $225 million as an Emergency Reserve for African Famine Relief to be used if other funds under the act are exhausted. Earmarks $2.5 million for monitoring food and disaster assistance, and requires AID to submit a country-by-country plan before using funds under the act. Of the amounts provided, $784 million represented new appropriations. Reported to the House from Committee on Appropriations (H.Rept. 99-2) Feb. 25, 1985. House version provided a total of $880 million in emergency assistance. Called up by unanimous consent and passed in the House Feb. 28. Reported to Senate by Senate Committee on Appropriations (S.Rept. 99-8) Mar. 5, 1985. Called up by unanimous consent and passed Senate on Mar. 20, 1985; Senate version provided $669 million assistance. Conference Report (H.Rept. 99-29) filed Mar. 27, 1985; House and Senate agreed to conference report, with amendments, Apr. 2, 1985; signed into law (P.L. 99-10) Apr. 4, 1985.

H.R. 1096 (Weiss)

Authorized $175 million in non-food assistance in response to the African famine; including $137.5 million for relief, rehabilitation, recovery and emergency health projects, as well as $37.5 million for assisting refugees. Earmarked $2.5 million to support planning, monitoring, and supervision of food assistance by the Agency for International Development. Reported to the House by Committee on Foreign Affairs (H.Rept. 99-3) Feb. 25, 1985; passed the House by a vote of 391-25 Feb. 26. Amended in the Senate to include the provisions of S. 457, which provided for the furnishing of assistance by the Defense Department at the request of the State Department or AID; and to include a program of emergency credit for U.S. farmers. Passed the Senate by a vote of 62-35 Feb. 27; vetoed by the President (H.Doc. 99-37) Mar. 6, 1985.

H.R. 2080 (Leland)

Authorizes such funds as may be necessary for continued U.S. participation in the International Fund for Agricultural Development and $100 million (spread over four years) for the U.S. contribution to the Fund's Special Program for Sub-Saharan Countries affected by Drought and Desertification. Appropriates $900 million in P.L. 480 Title II emergency food assistance in FY86 and $25 million as the FY86 U.S. contribution to the Special Program for Sub-Saharan Countries. Introduced Apr. 17, 1985; referred to Committees on Appropriations and on Foreign Affairs.

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IB85075

MLC-019

ANGOLA: ISSUES FOR THE UNITED STATES

...repeal enacted...

Reports of an Angolan offensive against the UNITA guerrillas of Jonas Savimbi in southeastern Angola appeared in September 1985. These reports, and allegations that the offensive was being supported by Soviet and Cuban forces, led to new appeals for U.S. assistance to UNITA. Savimbi and his guerrilla army are seen as a bulwark against Marxist advances in southern Africa by those who support such assistance. They argue that a Savimbi victory would represent an important gain for the United States in its rivalry with the Soviet Union.

Critics argue that aid to Savimbi would entangle the United States in an unwinnable war and further destabilize southern Africa -- possibly to the advantage of the Soviet Union and its allies. They are also concerned that such assistance would bear a high diplomatic cost by aligning the United States with the white government of South Africa, which has now openly acknowledged its own aid to Savimbi and threatended to intervene militarily on his behalf.

The Clark Amendment, which prohibited covert or other assistance that would promote military or paramilitary operations in Angola, was repealed on Aug. 8, 1985, when the President signed the FY86 Foreign Assistance Authorization (S. 960/H.R. 1555) into law.

LEGISLATION

P.L. 99-83, S. 960/H.R. 1555
International Security and Development Cooperation Act of 1985. Amendment to H.R. 1555 introduced by Representative Stratton to repeal the Clark amendment (Sec. 118 of the International Security and Development Cooperation Act of 1980) adopted by a vote of 236 to 185 on July 10. H.R. 1555 reported to House (H.Rept. 99-39) by Committee on Foreign Affairs Apr. 4; passed the House, as amended, July 11. Senate passed S. 960, containing no provision on the Clark Amendment, May 15. Conference Report (H.Rept. 99-237) accepted the House position, which became Sec. 811 of the bill. Senate agreed to conference report July 30; House agreed to conference report July 31. Signed into law (P.L. 99-83) Aug. 8, 1985.

P.L. 99-190, H.J.Res. 465
Further Continuing Appropriations, 1985. Amendment by Senator Wallop to provide $50 million in assistance to UNITA. Introduced from the floor (Amdt. no. 1399) Dec. 10, 1985, and defeated by a vote of 39-58. H.J.Res. 465 passed the House Dec. 4; passed the Senate Dec. 10; conference report (H.Rept. 99-450) agreed to Dec. 19; signed into law (P.L. 99-190) Dec. 19, 1985.

H.R. 3472 (Pepper)
Authorizes $27 million for humanitarian assistance to UNITA, through a United States Government agency other than the Central Intelligence Agency. Introduced Oct. 1, 1985; referred to Committee on Foreign Affairs.

H.R. 3609 (Siljander)
Authorizes $27 million in military assistance to UNITA. Waives section 502 of the Foreign Assistance Act, which limits military assistance to a number of specific purposes. Introduced Oct. 23, 1985; referred to Committee on Foreign Affairs.

H.R. 3690 (Weiss)
Prohibits assistance for the purpose of promoting or augmenting, directly or indirectly, the capacity of any nation, organization, or movement to conduct military or paramilitary operations in Angola. Prohibits any waiver. Introduced Nov. 6, 1985; referred to Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

H.R. 3725 (Dornan)
Provides $27 million for nonlethal assistance and $19.1 million in military assistance for "the democratic resistance" in Angola. Introduced Nov. 12, 1985; referred to Committee on Foreign Affairs.

S. 1972 (Helms, for East)
Identical with H.R. 3609. Introduced on Dec. 18, 1985; referred to Committee on Foreign

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MLC-020

FOREIGN AID ISSUES IN 1986

...a budget freeze?...

The FY86 foreign aid budget request of $16.6 billion (as amended in May 1985) exceeded the level of foreign assistance appropriations provided for FY85 in the Continuing Resolution (P.L. 98-473) by 5.6% in nominal terms and by 1.8% in real growth. Some congressional critics believed that foreign aid should be subject to a budget freeze or reduction like so many other Federal programs. Other critics found no fault with the volume of aid but disagreed with the Administration as to how and where the funds should be spent. By year's end, Congress approved a $15.22 billion foreign aid budget, $1.1 billion, or 7%, less than the President's request. However, this appropriation was subject to sequestration reductions under the terms of P.L. 99-177, making FY86 funds available more than 11% less than requested by the President.

In 1985, the foreign aid debate focused on the following major issues:

Continued increase in the size of foreign assistance programs. The FY86 budget represented a 5.6% increase over the regular FY85 appropriation (excludes FY85 supplemental appropriations). The new request would have put foreign aid 64% higher than in FY81. In terms of real growth, the FY86 budget would have been 1.8% more than the current year and 32% higher than in FY81.

Emphasis on military aid programs. The foreign aid recommendation for next year would have increased military aid by over 11%, boosted the security-related Economic Support Fund (ESF) by nearly 5%, but reduced development and food assistance by nearly 6%, in nominal terms. Increases in military aid for Israel and Egypt accounted for $525 million of the $754 million rise in military spending. Military aid as a share of the total foreign assistance program would also have grown from 38% in FY85 to 40.5% in FY86.

Significant reductions in some development aid accounts. The President recommended cutting funds for a number of development assistance programs, including the population and health accounts. In recent years, Congress has increased both of these activities beyond the Administration's request.

Changed policy on use of family planning funds. In July 1984, the President announced changes in policy regarding U.S. support for overseas family planning programs. Among those changes was a prohibition on U.S. assistance to any international family planning agency that promotes abortion or abortion-related activities as part of its program, regardless of whether U.S. funds are used for these purposes. Since implementing this new policy, the United States has declared the International Planned Parenthood Federation ineligible for U.S. family planning aid. In another action, AID withheld $10 million from the U.N. Fund for Population Activities because of UNFPA's program in China -- a country which allegedly promotes coercive family planning practices. While the President implemented this new policy without legislative change, some congressional critics agreed that the policy went beyond the intent of Congress as expressed in the Foreign Assistance Act of 1961.

Increased aid for Israel and Egypt. For FY86, the President sought an increase in military aid for both Israel and Egypt. Israel's military assistance would rise from $1.4 billion to $1.8 billion, while support for Egypt would grow from $1.175 billion to $1.3 billion. The FY86 budget also included about $1 billion in economic and food aid for Egypt and $1.2 billion for Israel, about the same provided in FY85. Israel also asked for a special $1.5 billion supplemental to counter a severe foreign exchange shortage and other economic problems. This amount was in addition to the regular FY85 program of $1.2 billion.

Following requests from both Israel and Egypt for additional economic assistance to counter severe foreign exchange shortages and other economic problems, the Administration submitted a supplemental request in May 1985 of $1.5 billion for Israel and $500 million for Egypt to be provided in 1985 and 1986. These sums were in addition to the regular FY85 and FY86 aid packages for Israel and Egypt.

FY86 Foreign Aid Authorization Legislation

In most years, Congress will consider one worldwide foreign aid authorization bill that deals with most, but not all, foreign aid programs. The legislation authorizes appropriations for nearly all bilateral activities and U.S. voluntary contributions to international organizations, and makes policy changes concerning food aid (P.L. 480). However, the bill usually does not address multilateral development bank (MDB) issues or set specific annual funding levels for food assistance. These matters are dealt with in authorization bills considered on an irregular basis, as necessary, and annual appropriation measures. Therefore, the aggregate size of the annual foreign aid authorization bill, labeled as the "International Security and Development Cooperation Act" in recent years, is substantially less than the total foreign aid budget (appropriation) request that includes funds for all programs. For FY86, the President's foreign aid authorization request was $13.2 billion.

On Apr. 11, 1985, the House Foreign Affairs Committee recommended a $13.05 billion authorization for foreign assistance for each of FY86 and FY87 (H.R. 1555). This level was about $170 million less than the President's request but about $600 million above FY85 funding. The House Committee also shifted funds from military and Economic Support Fund (ESF) activities to development programs.

In other provisions, the committee approved the supplemental economic aid package for Israel and Egypt, placed tough conditions on military aid and sales to Jordan, shifted military funds to economic programs for the Philippines, included $5 million for non-Communist Cambodian resistance forces, and relaxed Administration conditions on U.S. support for the IPPF, UNFPA, and other international family planning goups.

Under pressure to further reduce spending for foreign aid, the full House cut back the committee-approved authorization to $12.6 billion when the bill was taken up in early July. During three days of debate on 71 amendments, lawmakers approved, among other matters, new airport security regulations, added $27 million for humanitarian aid to anti-government Nicaraguan forces -- but prohibited CIA involvement in administering the money, repealed the so-called "Clark amendment" that had banned U.S. support for anti-government groups in Angola since 1976, and reversed committee actions on population programs.

On the Senate side, the Foreign Relations Committee reported its bill (S. 960) on Apr. 19, 1985, recommending a $12.8 billion foreign aid authorization. For the most part, S. 960 incorporated the program levels for FY85, or the President's FY86 request, whichever was less. Even so, the legislation was about $200 million higher than funding set for FY85 in the Continuing Resolution (P.L. 98-473). Military aid fell nearly $350 million below the Administration's FY86 budget, and ESF was reduced by about $180 million; development assistance, however, was slightly higher than the President's request. The bill endorsed the request for Central America and did not contain the FY85 supplemental for Israel or restrictive provisions concerning Jordan and the Philippines as found in the House bill. S. 960, however, modified the new family planning policy implemented in July 1984 by loosening eligibility requirements for non-governmental organizations and by tightening restrictions on groups performing services in countries that practiced involuntary abortion policies.

During a 2-day debate, the Senate passed S. 960 on May 15 by a vote of 75-19. Although the Senate adopted 34 amendments to the committee-reported legislation, Senators refrained from increasing the $12.8 billion FY86 foreign aid authorization recommended by the Foreign Relations Committee and from shifting funds among the economic and military aid accounts. Changes made during Senate debate included the addition of an FY85/FY86 economic aid supplemental of $1.5 billion for Israel and $500 million for Egypt, making available from existing funds $15 million in humanitarian assistance for the Afghan people, and the authority to utilize $5 million from economic and military aid accounts to support non-communist resistance forces in Cambodia.

Shortly before the August recess, Congress approved a conference report on S. 960 that set foreign aid spending at $12.77 billion for each of FY86 and FY87. This level represented a virtual budget freeze for foreign aid authorizations during the next two years. The final bill cut the President's overall request by nearly $500 million, trimmed military spending by about $440 million and ESF by $224 million, and added $175 million for development and other economic aid programs. Besides including matters that were common to both bills -- such as the $2 billion in supplemental aid for Israel and Egypt -- House and Senate conferees resolved major differences between the two measures in the following manner: kept the $27 million "contra" aid but banned CIA involvement in administering the assistance; made conditions on Jordan aid non-binding; and shifted some military aid to economic assistance, but not as much as proposed by the House, for the Philippines. Conferees dead-locked on the issue of family planning policy and therefore dropped all provisions from the final bill other than an FY86/87 authorization of $290 million.

Although the Administration expressed strong opposition to various provisions in the bill -- particularly to the reductions in security aid -- President Reagan signed S. 960 (P.L. 99-83) on Aug. 8, 1985.

FY85 Supplemental Appropriation

The House (June 12) and Senate (June 20) passed H.R. 2577, a measure providing supplemental appropriations for FY85. The House bill included $2.25 billion in additional foreign assistance funds while the Senate version provided $2.5 billion for foreign aid. The executive branch requested $2.5 billion. Of that amount, both House and Senate language appropriated $237 million for U.S. payments to several multilateral development banks, $1.5 billion for Israel, and $500 million for Egypt. The Senate also added, at the request of the Administration, $250 million in supplemental economic aid for Jordan.

In a related matter, the House inserted $27 million humanitarian assistance for Nicaraguan democratic resistance to be administered by an agency other than the Central Intelligence Agency or the Department of Defense. The Senate increased the amount to $38 million, but did not restrict which agency would be responsible for administering the money other than to direct the National Security Council to monitor the utilization of funds.

The final bill, approved by Congress on Aug. 1, 1985, included the full $2.5 billion as passed by the Senate, but retained the House language regarding U.S. aid to the Nicaraguan contras. The President signed the bill (P.L. 99-88) on Aug. 15, 1985.

FY86 Foreign Assistance Appropriations

Faced with continuing concern over the Federal budget deficit, the House Appropriations Committee recommended on Aug. 1, 1985, an FY86 foreign aid appropriation measure (H.R. 3228) of $13.77 billion -- a level that was $700 million less than FY85 and $1.2 billion less than the President's FY86 request. (These comparisons exclude amounts also provided in H.R. 3228 for the Export-Import Bank.)

The committee applied a somewhat complicated reduction formula that, for many programs, resulted in a 17% cut from the President's recommendation. The reductions were made in all accounts -- multilateral development banks, cut $54 million; bilateral development aid, reduced $145 million; ESF, down $373 million; and military aid, cut $754 million. However, the House panel restored funds to a few programs -- the Child Survival Fund, narcotics control activities, and the American Schools/Hospitals Abroad program -- by transfering money still available for economic projects in Lebanon. These funds were deemed unusable under present conditions in Lebanon. The committee also exempted aid levels for Israel and Egypt from any reductions. Under the bill, Israel would receive $3.1 billion in economic and military assistance while Egypt would get $2.1 billion.

The Senate Appropriations Committee, in its report on foreign aid spending (S. 1816), recommended $14.4 billion, a level about mid-way between the House and executive branch figures. Compared with the House measure, the Senate's bill made further cuts to multilateral aid programs (-$118 million), increased some bilateral development activities (agriculture, +80 million), and boosted ESF and military aid spending (+148 million and +$366, respectively). Aid levels for Israel and Egypt were identical to the House bill. The legislation also provided the authority to reduce the interest rate on repayments of past military loans to Israel. This proposal would save Israel about $331 million in debt service in FY86.

When Congress did not take up either of these bills, Senate and House Committees met and revised their foreign aid recommendations to be included in the Continuing Appropriations for FY86, the omnibus spending measure that would fund programs for which regular appropriations had not been enacted. The House-passed Continuing Appropriations (H.J.Res. 465) provided $13.82 billion for foreign aid, while Senate-approved version included $13.95 billion. In its revised bill, the Senate also dropped the proposal to reduce interest rates on military loans to Israel.

As finally approved on Dec. 19, House and Senate conferees agreed to set foreign aid spending for FY86 at $13.92 billion. In separate action, Congress also approved $1.3 billion for overseas food aid, bringing the total foreign aid budget for FY86 to $15.22 billion. This was $1.1 billion, or 7%, less than the President's request. In specific categories, the legislation reduced the executive branch's budget for multilateral aid by $72 million (-5%), bilateral development aid by $22 million (-1%), ESF by $324 million (-8%), and military aid by $671 million (-10%).

Effects of Gramm-Rudman-Hollings

The Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings, P.L. 99-177, signed on Dec. 12, 1985) and the Sequestration Report (General Accounting Office, Report to the President, Budget Reductions for FY86, Jan. 21, 1986, GAO/OCG 86-1, or see the Federal Register of Jan. 15, 1986) called for a 4.3% reduction, or $654.46 million, in the total $15.22 billion foreign assistance program for FY86. There is a question on how Gramm-Rudman-Hollings (GRH) will be applied to the foreign assistance program: will all earmarks in the authorization and appropriation bills be protected from GRH; or will the GRH reductions be applied across the board; or will earmarks be treated on a case-by-case basis, with some being protected and others cut? For exemple, Section 204 of the authorization bill, P.L. 99-83, earmarks $80 million ESF for Portugal. Will Portugal receive its earmarked $80 million, and the full GRH reductions be taken from the non-earmarked ESF account? Will Portugal receive $76.56 million ($80 million less 4.3%)? Or, will Portugal receive less than $76.56 million in order to protect some other earmarked country? It is not clear if the executive branch, Congress, or both in consultation will make the decision on how to handle the GRH cuts.

The allocation of the GRH cuts in foreign assistance will be known when the President reports to the Congress under Section 653 of the Foreign Assistance of 1961, as amended. The 653 report, usually due 30 days after the appropriation bill is signed, is expected about Feb. 1, 1986.

LEGISLATION

P.L. 99-8, S. 689

African Famine Relief and Recovery Act of 1985. Authorizes $175 million in nonfood assistance to the drought-affected countries in Africa. H.R. 1096 introduced Feb. 19, 1985; referred to the House Committee on Foreign Affairs; reported (H.Rept. 99-3) Feb. 25, 1985; passed House, 391-25, Feb. 26, 1985. S. 457 introduced Feb. 19, 1985; referred to Senate Committee on Foreign Relations. Reported (S.Rept. 99-4) Feb. 21, 1985; H.R. 1096 amended in Senate by inserting the text of S. 457, as amended, and passed Senate (62-35) Feb. 27, 1985; House agreed to Senate amendment to H.R. 1096 Mar. 5, 1985; H.R. 1096 vetoed by the President (H.Doc. 99-37) Mar. 6, 1985. S. 689 introduced Mar. 19, 1985; passed Senate Mar. 19, 1985; passed House Mar. 21, 1985; signed by the President (P.L. 99-8) Apr. 2, 1985.

P.L. 99-10, H.R. 1239

Makes urgent supplemental appropriations of $784 million for famine relief in Africa. Introduced Feb. 21, 1985; referred to House Committee on Appropriations; reported (H.Rept. 99-2, part I) Feb. 21, 1985, and (H.Rept. 99-2, part II) Feb. 25, 1985; passed House Feb. 28, 1985. H.R. 1239 referred to Senate Committee on Appropriations Mar. 5, 1985; reported (S.Rept. 99-8) Mar. 5, 1985; passed Senate, amended (98-1), Mar. 20, 1985; conference report filed in House (H.Rept. 99-29) Mar. 27, 1985; House agreed to conference report (400-19) Apr. 2, 1985; Senate agreed to conference report Apr. 2, 1985; signed by the President (P.L. 99-10) Apr. 4, 1985.

P.L. 99-83, S. 960

International Security and Development Cooperation Act of 1985. Authorizes U.S. bilateral economic and military aid programs and contributions to international organizations for FY86 and FY87 (H.R. 1555 only). H.R. 1555 introduced, by request, Mar. 19, 1985; referred to House Committee on Foreign Affairs; reported (H.Rept. 99-39) Apr. 11, 1985; amended and passed the House July 11. S. 660 introduced, by request, Mar. 14, 1985; referred to Senate Committee on

Foreign Relations; committee ordered reported a clean bill on Mar. 27, 1985; S. 960, a clean bill, introduced and reported (S.Rept. 99-34) Apr. 19, 1985; amended and passed Senate on May 15 (75-19). Conference report on S. 960 filed in the House (H.Rept. 99-237) on July 29; Senate agreed to conference report on July 30; House agreed to conference report on July 31 (262-161). Signed by the President (P.L. 99-83) on Aug. 8, 1985.

P.L. 99-88, H.R. 2577
Supplemental Appropriations Act, 1985. Appropriates supplemental funds for FY85, including funds for foreign assistance. Introduced May 22, 1985; reported, with amendments, by the House Committee on Appropriations (H.Rept. 99-142) May 22; passed House, amended, June 12 (271-156); referred to Senate Committee on Appropriations June 13, 1985; reported with amendments (S.Rept. 99-82) June 13; passed Senate, amended, June 20. Conference report filed in the House (H.Rept. 99-236) on July 29; House agreed to conference report on July 31 (320-106); Senate agreed to conference report on Aug. 1, 1985. Signed by the President (P.L. 99-88) on Aug. 15, 1985.

P.L. 99-190, H.J.Res. 465
Continuing Appropriations, 1986. Appropriates funds for FY86 for a number of programs, including foreign assistance. Introduced Nov. 21, 1985; reported by House Committee on Appropriations (H.Rept. 99-403) Nov. 21; passed House Dec. 4 (212-208); reported by Senate Committee on Appropriations (S.Rept. 99-210) Dec. 6; passed Senate Dec. 10; conference report (H.Rept. 99-450) filed in House; passed House Dec. 19 (261-137); passed Senate Dec. 19; signed into law Dec. 19, 1985.

H.R. 3228 (Obey)/S. 1816 (Kasten)
Foreign Assistance Appropriations Act, 1986. H.R. 3228 introduced as a clean bill Aug. 1, 1985; reported by House Committee on Appropriations (H.Rept. 99-252) Aug. 1, 1985. S. 1816 introduced as a clean bill Oct. 31, 1985; reported by the Senate Committee on Appropriations (S.Rept. 99-167) Oct. 31, 1985. (See H.J.Res. 465 for further action.)

Larry Q. Nowels

MLC-021

FOREIGN ASSISTANCE TO EL SALVADOR

...no cuts in military aid...

In 1985 Congress essentially approved President Reagan's initial request for $483.4 million in FY86 foreign aid, including $132.6 million in military assistance, to assist the govemnment of Christian Democrat Jose Napoleon Duarte in the struggle against leftist guerrillas in El Salvador. However, it failed to complete action on the Administration's September 1985 request for an additional $54 million ($22 million of this for El Salvador) to fund the Central American Counterterrorism Program.

President Duarte was elected in two-round elections in March and May 1984 and his party unexpectedly won control of the legislature and the municipalities in the March 1985 elections. Since his inauguration in June 1984, he has curbed human rights abuses, achieved modest economic growth, and engaged in peace talks with the guerrillas on Oct. 15, and Nov. 30, 1984. Prospects for peace talks dimmed over the next few months when the guerrillas, increasingly on the defensive in the rural areas against the better equipped and trained Salvadoran military, stepped up attacks on urban targets. In major incidents they killed 13 people, including four off-duty U.S. Marines, at a sidewalk cafe in San Salvador on June 19, 1985, and then seized President Duarte's daughter on Sept. 10, 1985, and held her for six weeks before releasing her on Oct. 24, 1985, in exchange for guerrillas held in Salvadoran prisons. Human rights groups have praised Duarte for his efforts but have argued that he has been unable to increase prosecutions for human rights violations and to control the alleged indiscriminate attacks by the military against non-combatant civilians.

The Administration's request is almost identical to the FY85 request, nearly all of which was approved by Congress last year. In previous years, while Congress generally supported the requests for economic aid, it regularly cut military aid and imposed human rights conditions on the aid.

Foreign Aid Authorization for FY86

The Congress passed a foreign aid authorization bill (S. 960) in late July 1985 that authorized less FY86 aid than the President's regular worldwide request, but generally supported the Executive request for El Salvador. While ESF funding was earmarked at $195 million (rather than the $210 million requested) and Development Assistance was earmarked at $79.6 million (rather than the $89.8 million requested), the earmarkings were primarily to protect El Salvador from the effects of the overall aid reductions in the bill. Breaking with recent practice, the Congress did not make cuts in military aid to El Salvador, nor did it impose binding conditions on aid to the country. President Reagan signed the measure into law (P.L. 99-83) on Aug. 8, 1985.

In early action, committees in both houses reported out foreign aid authorization measures in April 1985 that generally supported the President's request for El Salvador, but differed in other respects. The bill (S. 960) reported by the Senate Foreign Relations Committee and approved by the Senate on May 15, 1985, contained no conditions on aid to El Salvador. The House bill (H.R. 1555) reported by the House Foreign Affairs Committee and approved by the House on July 11, 1985, provided that aid could be disbursed in semiannual installments only if the President reported to

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Congress that the government of Christian Democrat Jose Napoleon Duarte was pursuing a dialogue with the guerrillas, was controlling the military and security forces to insure that they were complying with international law and his directives regarding the protection of civilians during combat operations, and, in addition, had made progress during the preceding six months to end the activities of the death squads, to establish an effective judicial system, and to implement the land reform program.

The conference report (H.Rept. 99-237) approved by the House and Senate in late July 1985 softened the House conditions to expectations and specified that the required reports would be on the extent to which the expectations were being achieved. In addition to earmarkings mentioned above, other provisions required that Congress be notified before the export of helicopters and aircraft to the country, that ESF funds be maintained in a separate account and be used for certain purposes, and that all aid be suspended if President Duarte were deposed by a military coup. Still other provisions would exempt El Salvador from existing prohibitions and permit U.S. foreign assistance to be used to assist police or law enforcement agencies in the country and to provide compensation to owners of land expropriated under the country's land reform program.

Foreign Aid Appropriations for FY86

When both Houses failed to complete action on a regular appropriation bill for foreign assistance, the foreign aid appropriation was eventually incorporated into the omnibus continuing resolution (H.J.Res. 465, Further Continuing Appropriations for FY86) which Congress passed and the President signed into law (P.L. 99-190) on Dec. 19, 1985.

Since Congress set no specific limit on military or economic aid to El Salvador in this continuing resolution, the President will have discretion to provide nearly all the aid initially requested for the country, with the constraint that the approved level of worldwide aid is less than his request.

In sections relating specifically to El Salvador the continuing resolution provides up to $1 million of ESF funds to assist El Salvador's Special Investigative Unit in bringing to justice those responsible for the murder of U.S. citizens, and it sets aside $5 million of military assistance until the President has reported that the government of El Salvador has substantially concluded all investigative action and has pursued all legal avenues to bring to trial those responsible for the January 1981 killing of three land reform specialists, including two Americans, in San Salvador.

Other provisions of the act, similar to those in the foreign aid authorization (see above), specify that ESF funds placed in El Salvador's Central Reserve Bank are to be maintained in a separate account, that appropriation committees are to receive the required reports on human rights conditions and to be notified 15 days in advance of the provision of aircraft or helicopters to El Salvador, and that aid is to be suspended if a duly elected Head of Government is deposed by military coup or decree.

Initial action on this appropriation legislation was taken when the House and Senate appropriations committees reported out regular bills in August and October 1985. The committee-reported bills were alike in that they essentially approved the President's request for aid to El Salvador, since no specific cuts were mandated, but they differed in other ways.

The bill reported out by the House Appropriations Committee on Aug. 1, 1985 (H.Rept. 99-252 on H.R. 3228) directed the President to report to Congress on Oct. 1, 1985, and Apr. 1, 1986, on the extent to which certain objectives mentioned in the foreign aid authorization (see above) are being achieved, and it required that ESF funds be maintained in a separate account. To emphasize Committee concern over the failure to bring to justice those responsible for the murders of U.S. citizens, including the killing of four Marines and two civilians at a sidewalk cafe on June 19, 1985, the Committee earmarked up to $1 million in ESF funds to assist the Salvadoran Government's Special Investigative Unit in those investigations. It required that a report of the investigation be provided to Congress, and it indicated that it would be watching developments in future considerations of funding. The Committee report also asked the Administration to report, by Feb. 2, 1986, on the projected economic and military aid that will be required for El Salvador over a 3-year period under several alternative scenarios.

Lacking time to complete action on the committee-reported bill, the committee essentially incorporated its recommendations into the House version of the omnibus continuing resolution (H.J.Res. 465) that was passed on Dec. 4, 1985. The House provisions on El Salvador survived conference and were included in the measure enacted and signed into law (P.L. 99-190) on Dec. 19, 1985.

The bill reported out by the Senate Appropriations Committee on Oct. 31, 1985 (S.Rept. 99-167 on S. 1816), was similar to the House bill in that it required that the semi-annual human rights reports be submitted to the appropriations committees as well as the authorizing committees, and it provided up to $1 million in ESF funds to support El Salvador's Special Investigative Unit. In addition, it set aside $10 million of military assistance until the President reports that the Salvadoran government has substantially concluded all investigative action and has pursued all legal avenues to bring to justice those responsible for murdering two U.S. land reform consultants in January 1981, it cut off aid if a duly elected Head of Government is deposed by a military coup, and it required that the appropriations committees by notified at least 15 days in advance of the provision of helicopters or aircraft to El Salvador.

Without time to complete action on the regular bill, the committee essentially incorporated its recommendations into the Senate version of the omnibus continuing resolution (H.J.Res. 465) approved by the Senate on Dec. 12, 1985. In conference all of the Senate provisions on El Salvador were retained but the amount withheld pending completion of a trial of those responsible for the 1981 murders was reduced from $10 million to $5 million. The Senate approved the conference report on Dec. 19, 1985 and the President signed the measure into law (P.L. 99-190) on the same day.

Special Central American Counterterrorism Program

In September 1985 the Administration submitted an additional request for $54 million in FY86 funds for the Special Central American Counterterrorism Program which seeks to enhance the ability of Central American countries to deal with terrorism. Half of the funds would be military assistance, and the other half would be assistance to law enforcement agencies under the Anti-Terrorism Assistance provisions of the Foreign Assistance Act. Of the total, El Salvador would receive the largest share -- $10 million in military assistance, and $12 million in law enforcement assistance. The Administration argued that specialized training and equipment was needed to deal with the upsurge in urban terrorism epitomized by the killing of the U.S. Marines in El Salvador in June 1985.

Little action was taken on this request by the end of 1985. While the Senate Foreign Relations Committee reported out a bill on Dec. 10, 1985 (S.Rept. 99-213 on S. 1915), after eliminating the military assistance and imposing strict human rights conditions on the police assistance, the measure was never considered by the full Senate. The House Foreign Affairs Committee held hearings in October and November on the Administration's request (H.R. 3464), but no subsequent action was taken by the end of the year. The Senate Appropriations Committee deferred action on the request when it reported its version of the foreign aid appropriation bill (S. 1816) on Oct. 31, 1985, and the House Appropriation Committee took no action since the request was submitted after the Committee reported out its bill (H.R. 3228) on Aug. 1, 1985.

LEGISLATION

P.L. 99-83 S. 960

An original foreign aid authorization bill (S. 960) was introduced and reported by Senate Foreign Relations Committee on Apr. 19, 1985 (S.Rept. 99-34), following markup Mar. 26 and 27, 1985. In general, the Committee approved aid for FY86 at the level approved in the FY85 Continuing Resolution, or at the level of the President's request, whichever was lower. While the net effect is a slight cut in the President's request, no specific cuts were earmarked for El Salvador. Various conditions on aid to El Salvador were considered and rejected by the Committee. Section 403 of the bill followed the House provision in permitting U.S. assistance to be used to compensate owners of land expropriated under a land reform program if the President determines that such program furthers the national interest of the United States. The Senate passed S. 960 on May 15, 1985, after rejecting an amendment by Senator Helms to prohibit the use of U.S. assistance for compensation in land reform programs, and after approving an amendment by Senator Bumpers to express the sense of the Senate that President Duarte is to be congratulated for his outstanding leadership and for his efforts to foster democratic government and institutions in El Salvador.

The House Foreign Affairs Committee reported its bill (H.R. 1555), amended, on Apr. 11, 1985 (H.Rept. 99-39) following markup Apr. 2 and 3, 1985. The Committee generally followed the recommendations adopted by the Subcommittee on Western Hemisphere Affairs on Mar. 19, 1985. The Committee, while generally supporting the President's request for El Salvador, recommended that aid be disbursed in semi-annual installments only if the President reported to Congress that the government of El Salvador was making progress to control the military abuses, to end the death squads, to establish an effective judicial system, to implement the land reform program, and to pursue a dialogue with the guerrillas. Other provisions required that Congress be notified before the export of helicopters and aircraft to the country, that control measures be adopted on ESF funds to El Salvador, and that all aid be suspended if President Duarte were deposed by military coup. After passing H.R. 1555 with amendments and incorporating the text into S. 960, the House passed the Senate measure on July 11, 1985, clearing the way for conference.

Conferees for the House and Senate resolved differences and filed a conference report (H.Rept. 99-237) on July 29, 1985. The Senate and House passed the conference compromise on July 30 and July 31, respectively, and the President signed the measure into law (P.L. 99-83) on Aug. 8, 1985. The major compromise, contained in Section 702, softened the House's binding conditions into expectations and required the President to report to Congress on Oct. 1, 1985, and Apr. 1, 1986, on the extent to which the expectations are being met. Section 702 also contains the Senate provision congratulating President Duarte for his efforts to foster democracy in El Salvador as well as the House provisions requiring that Congress be notified before the export of helicopters or aircraft to El Salvador, that ESF funds be maintained in a separate account, that Development Assistance be earmarked at $79.6 million, and that all aid be suspended if President Duarte were deposed by a military coup. Section 711 contains the House provision that would exempt El Salvador from the prohibition on providing assistance to law enforcement forces if the President reports that the country has made significant progress in the preceding six months in eliminating human rights violations. Section 1203 retains the provision in both the House and Senate bills that would waive a general prohibition (in Section 620(g) of the Foreign Assistance Act of 1961, as amended) and permit U.S. assistance to be used to compensate owners of land expropriated under El Salvador's land reform program if the President determines such aid to be in the national interest.

P.L. 99-190, H.J.Res. 465

Lacking time to complete action on a separate foreign aid appropriation bill, despite the existence of committee-reported bills in both Houses (H.R. 3228 in the House, S. 1816 in the Senate), the foreign aid appropriation was included in the omnibus continuing resolution (H.J.Res. 465) that was developed toward the end of the year. With a few exceptions, none of which related to El Salvador, the appropriations committees' previous recommendations (see discussion under "Foreign Aid Appropriations for FY86") were simply incorporated into the foreign aid section of the continuing resolution. The House version of H.J.Res. 465, reflecting the recommendations on H.R. 3228, was reported out on Nov. 21, 1985 (H.Rept. 99-403) and was passed by the House on Dec. 4, 1985. The Senate version, reflecting the recommendations on S. 1816, was reported on Dec. 6, 1985 (S.Rept. 99-210) and the Senate approved it on Dec. 10, 1985. A conference report which retained both Houses provisions on El Salvador was filed on Dec. 16 (H.Rept. 99-443), but the House failed to pass it for reasons not related to foreign aid. A second conference report was filed on Dec. 19, 1985 (H.Rept. 99-450) and was approved by both Houses on the same day. Later that day, the President signed the measure into law (P.L. 99-190).

With regard to El Salvador, the legislation gives the President considerable discretion to provide nearly all the aid requested for the country, since no specific cuts are mandated. In the subsection dealing with Economic Support Funds, the legislation contains the House provision requiring that ESF funds placed in the Central Reserve Bank of El Salvador be maintained in a separate account for easier monitoring, and it contains the jointly recommended provision that up to $1 million of the funds be available to assist El Salvador's Special Investigative Unit in bringing to justice those responsible for the murders of U.S. citizens in El Salvador. The subsection of the legislation dealing with Military Assistance, in keeping with recommendations by both Houses, repeals various Presidential reporting requirements and specifies instead that the reports required by the Foreign Aid Authorization Act shall be provided to the Appropriations Committees. The subsection on General Provisions contains several provisions relating to El Salvador. Section 513 contains the Senate provision that none of the funds may be obligated or expended to provide assistance to any country whose duly elected Head of Government is deposed by military coup or decree. Section 538 contains the Senate provision that no funds may be used to provide helicopters or other aircraft to El Salvador unless the Committees on Appropriations of both Houses are notified at least 15 days in advance. Section 547 sets aside $5 million of military assistance, rather than the $10 million originally approved by the Senate, until the President reports that the government of El Salvador has substantially concluded all investigative action and has pursued all legal avenues to bring to trial those responsible for the murder of two American land reform consultants in January 1981.

S. 1915 (Lugar)/H.R. 3463 (Fascell)

In early October 1985 identical bills (H.R. 3463 and S. 1757) were introduced to authorize the Administration's September 1985 request for an additional $54 million in FY86 military and police assistance funds ($22 million of this for El Salvador) under the Special Central American Counterterrorism Program. The Senate Foreign Relations Committee held hearings on Nov. 5 and 19, 1985, and reported out a clean bill (S.Rept. 99-213 on S. 1915) on Dec. 10, 1985, that eliminated the military assistance and placed strict human rights conditions on the $22 million of police assistance that was approved. The House Foreign Affairs Committee held hearings on H.R. 3463 on Oct. 24 and Nov. 19, 1985, but took no further action by the end of the year.

K. Larry Storrs

MLC-022

GENOCIDE CONVENTION

...further conditions?...

The International Convention on the Prevention and Punishment of the Crime of Genocide has been a matter of pending business before the Senate since its transmittal to that body by President Harry Truman in 1949. Since that time the Senate Foreign Relations Committee has held many hearings on the treaty and favorably reported it five times. The Senate, however, has neither given nor refused its advice and consent to ratification.

Recent activities on the Genocide Convention in the Senate followed a Reagan Administration announcement on Sept. 5, 1984, of support for ratification of the treaty. The Senate, on Oct. 11, 1984, adopted S.Res. 478 supporting the principles of the treaty and pledging expeditious action in 1985.

During the 99th Congress a subcommittee of the Senate Judiciary Committee as well as the Senate Foreign Relations Committee have held hearings on the Genocide Convention. The Senate Foreign Relations Committee on Apr. 25, 1985, began consideration of a report on the Convention. Disagreement within the Committee centered on whether the Committee should report the treaty with three understandings and one declaration (as the Committee had done since 1971) or whether four further conditions favored by Senators Helms and Lugar should also be included. On May 21, 1985, the Committee by a vote of 9 to 8 voted to accept the additional provisos supported by Senators Helms and Lugar. The Committee then voted to report the Convention with the provisos to the Senate.

On Oct. 16, 1985, President Reagan wrote to Senate Majority Leader Robert Dole urging Senate approval of the Convention. However, a unanimous consent request to provide for Senate consideration of the Convention on Dec. 10 was objected to; further Senate action was postponed until 1986.

Issues raised during discussion of U.S. ratification of the Genocide Convention include: whether such a treaty is within the treaty power of the United States; whether the Convention might conflict with the Constitution; whether it would affect the balance of power between U.S. Federal and State jurisdiction in criminal matters; and whether it would require extradition of U.S. citizens to other countries where they are charged with genocide. Other issues relate to the definition of genocide used in the treaty, the exclusion of political groups from that definition, the compulsory jurisdiction of the International Court of Justice, and the role of an international penal tribunal.

LEGISLATION

H.Res. 166 (Levine)
Expresses the sense of the House that the United States should ratify the Genocide Convention and pledges that the House will act expeditiously on the required implementing legislation. Passed House May 21, 1985.

Bite, Vita
IB74129

MLC-023

JAPAN-U.S. RELATIONS

...troubled by persisting trade and defense issues...

As military allies and major trading partners, the United States and Japan have enjoyed a close relationship of cooperation in economic and security affairs. The relationship, however, has been troubled in recent years because of persisting trade and defense issues. These issues have focused on Japan's large trade surplus with the United States and differences about the contribution Japan should make in support of allied security interests. Current opinion in the United States and Japan and developments in international economic and security affairs suggest that Congress and the Reagan Administration will continue to confront these problems in charting American policy toward Japan.

Congressional attention focused in the early 1980s on several proposals to achieve "reciprocity" in foreign trade; to impose domestic (local content) ratios, requiring that cars and trucks sold in the United States in large quantities contain a certain percentage of American parts and labor; and to urge Japan to contribute more to allied defense. None was enacted into law. On defense, the Senate passed in December 1982 in the 97th Congress a resolution calling on Japan to "immediately increase its annual defense expenditures to the levels required for its forces to deploy fully by 1990 an effective conventional self-defense capability, including the capability to carry out its policy, announced by the Prime Minister in May 1981, of defending its sealanes of communication." There was no action on Japan's defense in the 98th Congress.

During the 98th Congress, a revised trade reciprocity bill (S. 144) passed the Senate on Apr. 21, 1983. Some of its provisions were included in a comprehensive trade law passed by the Congress in October 1984.

During the 99th Congress, the U.S. Senate on Mar. 28, 1985, and the U.S. House on Apr. 2, 1985, passed by wide margins separate nonbinding resolutions that called upon President Reagan to be more firm on trade issues with Japan. And on June 11, 1985, the Senate passed by an 88 to 7 vote an amendment to the Foreign Relations Authorization Act for FY86 calling on Japan to bear a greater share of the allied defense burden in Asia by fulfilling its announced defense buildup plans for the 1980s according to schedule. That buildup was said to be over one year behind schedule. The bill was approved by Congress on Aug. 1, 1985.

In late 1985, Congress focused on a plethora of proposed legislation designed to cut the size of the U.S. trade deficit with Japan, to compel the Japanse to open their markets more to U.S. products, and to curb Japanese exports that compete with sensitive U.S. industries. While the Reagan Administration remained critical of Japan's slowness in opening its markets to U.S. products, the Administration continued to take a strong stand against "destructively protectionist" legislative proposals. Debate on this question was expected to continue in 1986.

LEGISLATION

H.R. 2068 (S. 1003) amendment 330 (Byrd et al.)
Calls on Japan to implement its defense preparedness plans for the 1980s and thereby bear its fair share of the allied defense burden in Asia. Passed Senate by a 88-7 vote June 11, 1985. Conference report approved by both Houses Aug. 1, 1985.

H.Con.Res. 107 (Rostenkowski et al.)
Concurrent resolution to express the sense of the Congress that the President take action to reduce the growing U.S. merchandise trade deficit and that he take action to respond to unfair international trade practices of Japan. Passed House by a 394-19 vote Apr. 2, 1985.

S. 1449 (Bentsen et al.)/H.R. 3035 (Rostenkowski et al.)
Would require that a 25% import fee be levied on products from Japan and three other countries unless they take steps to open their markets to U.S. products. S. 1449 introduced July 17, 1985; referred to Committee on Finance. H.R. 3035 introduced July 18, 1985; referred to Committee on Ways and Means.

S.Con.Res. 15 (Danforth et al.)
Prohibits ending of the voluntary restraint on imports of Japanese autos until U.S. exports to Japan are substantially increased. Introduced Feb. 20, 1985; referred to Committee on Finance. Amended version passed Finance Committee Mar. 27, 1985. Amended resolution passed by full Senate by a vote of 92-0 Mar. 28, 1985.

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IB81026

MLC-024

THE NATIONAL ENDOWMENT FOR DEMOCRACY

...to promote democracy abroad...

The first session of the 98th Congress authorized and appropriated funding for a newly established private, government-funded organization called the National Endowment for Democracy (NED), intended to support the growth of democratic ideas and institutions in foreign countries.

Many of the same members who objected to the idea of the NED and its Democratic and Republican party institutes tried again in the second session of the 98th Congress to delete funding for the Endowment as a whole, and, failing that, the party institutes in particular. The second session appropriated funds for the NED at the FY84 level, but added an administrative provision to the appropriation measure specifically prohibiting the granting of any NED funds to the Democratic or Republican party institutes or any other party-connected organization. Because this restriction applied only to FY85, the issue remained unresolved and had to be dealt with once again by the first session of the 99th Congress.

The House and the Senate took differing approaches in 1985 to authorizing and appropriating funds for the National Endowment for Democracy. The House generally took a more positive view of the NED, its institutes, and the programs which they supported. It preferred to permit the Endowment to function substantially as it had, while at the same time imposing new restrictions on certain types of activities, in order to meet the concerns noted by some members.

The Senate was more critical in its approach. It retained the prohibition originally imposed in FY85 on funding the Democratic and Republican party-related institutes. It also reduced funding for the NED to a lower level than was reported out by the Foreign Relations Committee.

The House also agreed to an amendment by Representative McCain requiring that certain provisions of the Freedom of Information Act be made applicable to the NED. The amendment made certain information on grant applications and other aspects of its operations available to the public upon request.

Representative Conyers unsuccessfully attempted to introduce an amendment to prohibit funding for the NED and to repeal the National Endowment for Democracy Act. Representative Hank Brown, who had previously strongly opposed U.S. Government funding for the NED, used the occasion to comment on what he called "substantial progress" achieved in the current session to correct opportunities for abuses or potential abuses in the NED's operation.

The final *authorization* legislation included a number of provisions affecting the National Endowment for Democracy. Accepting the thrust of House actions establishing new restrictions on NED operations, the conferees modified the language, requiring that the NED consult with the Department of State on all Endowment-funded overseas programs prior to their commencement. Other provisions (1) strengthened the prohibition against NED funds being used to finance political campaigns; (2) prohibited the use of NED funds for any activities of the Republican or Democratic National Committees; (3) prohibited grants to "any institute, foundation, or organization engaged in partisan activities" on behalf of the Republican or Democratic National Committees, or on behalf of any candidate for public office or any U.S. political party.

With these very specific injunctions against any use of any NED funds for partisan political purposes in the United States, supporters of continued NED funding for the Democratic and Republican party institutes were able to prevail.

The conferees also accepted the stronger Senate provision requiring that the NED fully comply with the Freedom of Information Act (FOIA). There is another provision, however, that establishes a procedure whereby the NED may determine not to supply information if it then submits a report to the USIA Director explaining why it has not complied with a particular request. If the Director approves the determination, USIA must assume full (including financial) responsibility for defending the Endowment in court. Should the Director disapprove, the Endowment then must comply with the request for information.

There is also a new section requiring that USIA facilitate requirements for publication of NED rules and procedures in the Federal Register.

The authorizing legislation provided not more than $18.4 million for NED for each of Fiscal Years 1986 and 1987 and deleted all earmarks and ceilings for grantees. Finally, the conference report includes a provision in both the House and Senate versions for annual audits of NED financial transactions by USIA.

The Appropriations Committees in both Houses generally followed the leads of the authorizing committees. While the House made little if any changes in the funding level and restrictions approved earlier in the authorization, the Senate Appropriations Committee substantially reduced the NED appropriation below the authorization level and retained the prohibition on funding the party institutes.

When the appropriations measure went to conference, the managers were able to agree on a compromise figure of $18 million for FY86, but a Senate amendment extending the FY85 prohibition on funding the party institutes remained in disagreement until the House voted to accept a compromise. The new language reiterated the restrictions developed for the authorization and added a stipulation placing further limitations on ties between the parties and the institutes.

When the conference report -- including this compromise -- was considered in the Senate, the upper chamber voted on a new amendment prohibiting funds for the party institutes. The amendment was defeated by an extremely close vote (43-44). Once this was accomplished, the Senate defeated an amendment by Senator Hollings denying funding for the NED, and accepted the compromise and the conference report, clearing the bill for the President's signature.

The National Endowment for Democracy and its four institutes had survived once more.

LEGISLATION

P.L. 99-93, H.R. 1931/H.R. 2068

State Department Authorizations, 1986 and 1987. Authorize appropriations for FY86 and FY87 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes. Open markup by House Foreign Affairs Subcommittee on International Operations held Mar. 26, 1985, prior to introduction Apr. 3, 1985. Marked up by Committee on Foreign Affairs Apr. 3, 1985, and ordered favorably reported by voice vote with an amendment in the nature of a substitute incorporating amendments adjusted by the full committee. Reported to House (H.Rept. 99-40) Apr. 11, 1985. Renumbered H.R. 2068 for technical reasons Apr. 17, 1985. Passed by House May 9, 1985. Passed by Senate (80-17), amended, June 11, 1985. Conference report (H.Rept. 99-240) agreed to by Senate (voice vote) July 31, 1985, and by House (350-74) Aug. 1, 1985. Signed into law Aug. 16, 1985.

P.L. 99-180, H.R. 2965

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY86. Makes appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for FY86. Markups held by Subcommittee June 20, 1985, and by full Committee July 11, 1985. Passed by House July 17, 1985 (273-136). Reported by Senate Appropriations Committee (S.Rept. 99-150) Oct. 4, 1985. Passed by Senate Nov. 1, 1984 (84-10). Conference report (H.Rept. 99-414) agreed to by House (voice vote) Dec. 5, 1985, and by Senate (voice vote) Dec. 6, 1985. President signed into law (P.L. 99-180) Dec. 13, 1985.

S. 1003 (Lugar)

Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. To authorize appropriations for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes. Open markup by Senate Foreign Relations Committee Apr. 2, 1985. Committee agreed to report consolidated draft bill as an original bill by a vote of 15-1. Reported to Senate (S.Rept. 99-39) Apr. 25, 1985. Considered by Senate June 6, 7, 10, and 11, 1985.

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IB83107

MLC-025

NICARAGUA: CONDITIONS AND ISSUES FOR U.S. POLICY

...aid to the "contras"...

Whether to continue assistance to the anti-Sandinista guerrillas is likely to be one of the first issues the 99th Congress will face as it returns for its second session. The funding approved by Congress in July 1985 for "humanitarian," non-lethal aid to the anti-Sandinista guerrillas (the so-called "Contras") expires on Mar. 31, 1986. In late December 1985 and early January 1986, Reagan Administration officials were sounding out Members of Congress on whether they would support a request for a new increment of aid that would allow for funds to be spent on arms and other military equipment.

The United States had covertly supplied arms to the contras from late 1981 to mid-1984, but in 1985 Congress first denied all funding and subsequently approved non-lethal aid through non-intelligence agency channels only. Currently, the Administration sees an increased threat to both the anti-Sandinista guerrillas and the United States from the escalation of the level of conflict in Nicaragua, including the use of Soviet helicopter gunships by the Nicaraguan military. In December 1985, U.S. officials had pointed to an increasing presence of Cuban military advisers on the Nicaraguan battlefields as requiring a strong U.S. response in support of the contras.

As of early January 1986, the Administration was not confident that Congress would favor resuming military aid. Congress' July 1985 decision to provide non-lethal aid was the compromise product of an prolonged and bitter debate between those who wanted to resume military aid and those who preferred to cease all support for the anti-Sandinista guerrillas. Many of the latter group voted in favor of "humanitarian" aid partly because of an Administration promise that it would seek to encourage a negotiated settlement to the conflict in Nicaragua. Those who believe that the Administration has willfully failed to follow Congress' recommendation to resume talks with the Sandinista government in order to facilitate negotiations were unlikely to favor a Administration request to expand aid. Others, however, may see Nicaragua's recent refusal to continue the Contadora talks on a regional peace agreement until the United States ceases aid to contras as evidence of Nicaragua's intransigence and as lending support to the Administration's position.

The "humanitarian" funding as agreed to in July conferences and signed by the President in August, the supplemental appropriations bill (H.R. 2577, P.L. 99-88) and the foreign aid authorization bill for FY86 (S. 960, P.L. 99-83) provided $27 million in aid for humanitarian purposes, which expressly included food, clothing, and medicine and excluded "weapons, weapons systems, ammunition, or other equipment, vehicles or material which can be used to inflict serious bodily harm or death." This was to be channeled through any agency picked by the President, except the Central Intelligence Agency or the Department of Defense: the President chose in early September to create a new Nicaraguan Humanitarian Assistance Office in the Department of State to distribute the funds. A third of the funds were to be available upon enactment, another third upon presentation of a Presidential report required 90 days after its enactment, and the last third upon presentation of a second such report 90 days later. A rule was established for consideration of future funding requests by the President which would have to be approved by joint resolution.

The July votes were a quick retake of the issue of aid to the contras, coming less than two months after House votes in April denied both "military" and humanitarian aid was the result of a hardening of congressional attitudes towards Nicaragua's Sandinista government. Among cited reasons for the rapid reconsideration was Nicaraguan President Daniel Ortega's trip to the Soviet Union shortly after the April vote, which crystallized a shift in opinion on the most effective tactics to curb a governemnt that had become largely regarded by members not only as undesirable because of its Marxist-Leninist tendencies but also a strategic problem because of its close military ties to Cuba and the Soviet Union. While opponents of the aid argued that such aid was counterproductive and would inevitably lead to the need for U.S. troops in Nicaragua, proponents gained adherents with their reasoning that supporting the contras was the only way to avoid the need for direct U.S. military action in Nicaragua.

A key part of this argument was whether support for the contras would help or hinder the prospects for a negotiated settlement of Central American problems through the Contadora peace process, or the possibility of negotiations between the Sandinista government and its opposition. The provisions finally adopted urged the support of regional negotiations in Central America and internal negotiations in Nicaragua, and urged the President to use diplomatic and economic measures to resolve the conflict in Nicaragua. Among the measures recommended are ending the embargo on trade with Nicaragua if Nicaragua agreed to a cease-fire, to open a dialogue with the Nicaraguan opposition, including the contras, and to lift the state of emergency.

LEGISLATION

P.L. 99-83, S. 960

Authorizes foreign aid appropriations for FY86. The conference report on this bill was approved by the Senate July 30, 1985 and by the House July 31 (H.Rept. 99-237). Signed into law Aug. 8, 1985.

P.L. 99-145, S. 1160

Authorizes Department of Defense FY86 appropriations. Section 1451 states: "It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force." Signed into law Nov. 8, 1985.

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MLC-026

PHILIPPINES IN TURMOIL: IMPLICATIONS FOR U.S. POLICY

...political and economic turmoil...

U.S. economic and military assistance to the Philippines has become a topic of congressional debate as a result of the political and economic turmoil in the country and the possible implications for U.S. interests. The Philippines has close ties with the United States, is strategically important, and is the host to important U.S. military bases. At immediate issue are: (1) the extent to which the United States should place conditions on foreign assistance as a lever to encourage reforms; (2) whether recent political, economic, and military reforms announced by the Philippine government are sufficient to justify increased U.S. assistance; and (3) whether the mix of U.S. economic and military assistance is appropriate to meet the severe challenges posed by political instability, a growing communist insurgency that operates throughout the country, and an economy in deep crisis.

In June 1983, the United States signed a 5-year agreement with the Philippines in connection with U.S. base rights. The agreement, the second such 5-year accord, established the security assistance package for FY85 through FY89. It increased the total aid package by $400 million above the program under the first 5-year agreement to $900 million. It allocated the $900 million among Economic Support Funds ($475 million), Foreign Military Sales credits ($300 million), and military assistance grants ($125 million).

For FY85, Congress approved the overall amount of aid requested by the Reagan Administration, but it changed the composition. Congress provided $140 million in Economic Support Funds (ESF) and $40 million in military aid, of which $25 million was grant aid (MAP).

The Administration has requested $95 million in ESF for FY86, but it raised the military aid request to $100 million, of which $50 million would be grant aid and $50 million would be Foreign Military Sales (FMS) credits.

LEGISLATION

Authorization.

House. On Apr. 3, 1985, the House Foreign Affairs Committee marked up the foreign assistance bill and accepted the Subcommittee on East Asian and Pacific Affairs recommendation for the Philippines totalling $180 million: $155 million ESF, $25 million MAP. Compared to the Administration's request for FY86, the Committee's bill represents a $75 million reduction in total military aid, a $60 million increase in ESF, and a $15 million reduction in the Administration's overall request for the Philippines. However, the Committee's earmark is similar to action it took on the FY85 mark-up with only slightly more emphasis on economic aid. The House Foreign Affairs Committee reported the bill, H.R. 1555, on Apr. 11, 1985 (H.Rept. 99-39). On July 9, the full House rejected an amendment to increase military aid, thus approving the aid amounts recommended by the Committee. At the end of July, however, a House-Senate conference committee approved $50 million in grant military assistance, $20 million in FMS, and $110 million in ESF.

Senate. On Mar. 27, 1985, the Senate Foreign Relations Committee marked up the foreign assistance bill. Senator Kerry introduced an amendment which would have reduced the total military package for the Philippines from $100 million to $40 million and required Presidential certification of human rights improvements, fair elections, and justice in the Aquino trial. This amendment was narrowly defeated thus sustaining the Administration's request for $195 million for the Philippines: $95 million ESF, $50 million MAP, $50 million FMS. The Senate Foreign Relations Committee reported the bill, S. 960, on Apr. 19, 1985 (S.Rept. 99-34). On May 15, the Senate, by a vote of 89 to 8, passed an amendment offered by Senator Kerry stating the "sense of the Senate" that Congress would determine future aid to the Philippines according to the enhancement of U.S. security interests and "sufficient progress" by the Government of the Philippines in:

> (1) guaranteeing free, fair and honest elections in 1986 and 1987;
>
> (2) ensuring the full and open prosecution of the murder of Benigno Aquino;
>
> (3) ensuring freedom of speech and the press and unrestricted access to the media by all candidates for public office in the elections scheduled for 1986 and 1987;
>
> (4) establishing the writ of habeas corpus and the termination of the Presidential Detention Action and all other forms of detention without charge or trial;
>
> (5) releasing all individuals detained or imprisoned for peaceful political activities; and
>
> (6) making substantial progress in termination of "extrajudicial killings by the Philippine military and security forces" and the prosecution of persons responsible for such killings in the past.

The House-Senate Conference Committee included the language of the Kerry amendment in the foreign aid bill, which was passed into law and signed by President Reagan.

Appropriations

House. On Aug. 1, 1985, the House Appropriations Committee reported H.R. 3228, the foreign assistance appropriations bill for FY86. The bill set a limit of $25 million in MAP for the Philippines.

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56

MLC-027

RADIO MARTI

...surrogate home service for the people of Cuba...

On Oct. 4, 1983, President Reagan signed into law P.L. 98-111, a bill (S. 602) authorizing the U.S. Information Agency's Voice of America (VOA) to set up a semi-autonomous "surrogate home radio service" for the people of Cuba. Radio Marti began broadcasting on May 20, 1985. Congress continues to be interested in the development of Radio Marti because of the impact its inauguration is having on U.S.-Cuban relations.

Congress has played a major role in determining the organizational frame of reference for Radio Marti since the Reagan Administration first announced its plans for a surrogate Cuban home radio service in September 1981. A compromise was worked out in 1983 whereby Radio Marti would operate as a distinctive entity, but under the aegis of the U.S. Information Agency's Voice of America. This required, among other things, that its broadcasts remain accurate, objective, and comprehensive, and that it accept policy guidance from the Department of State via the Director of the U.S. Information Agency.

On July 30, 1985, a conference report on H.R. 2068 State Department Authorizations for fiscal years 1986 and 1987, was filed in the House. The report included the Senate provision earmarking $11.5 million in FY86 and $11.7 million in FY87 for Radio Marti. The bill was signed into law by President Reagan Aug. 16, 1985 as P.L. 99-93.

With regard to the FY86 appropriation, the House Appropriations Committee reported out H.R. 2965, the Commerce-State-Justice bill, on July 11, 1985. The measure included $11.2 million for Radio Marti, the Administration request. Prior to passage of the bill by the full House on July 17, 1985, however, Representative Tauke introduced an amendment striking the $2.7 million above the Radio's FY85 appropriation. During nearly one hour of debate, Representative Tauke argued that the Radio's staff and other resources were adequate to its requirements and it should not be singled out for special treatment when other Federal agencies were being held to the FY85 level. The House agreed by voice vote.

The Senate approved an FY86 appropriation of $11.5 million for Radio Marti, $3 million above the FY85 level (and the House-passed level and the authorization for FY86). In conference, an FY86 appropriation of $10.7 million for Radio Marti was approved. The report noted that an unanticipated carryover from FY85 of $495,000 was available for FY86 Radio Marti programs. The conference report was approved by the House Dec. 5, 1985, and by Senate on Dec. 6, 1985. The President signed the measure into law as P.L. 99-180 on Dec. 13, 1985.

Radio Marti began regular 14.5 hour daily broadcasts to Cuba on the 1180 kHz frequency at 5:30 a.m. on May 20, 1985, the anniversary of the end of the U.S. occupation following the Spanish-American War and the beginning of Cuban independence. The broadcasts were beamed to Cuba from the Voice of America transmitter at Marathon in the Florida Keys. Radio Marti is also being broadcast to Cuba on shortwave frequencies throughout the day.

Cuba's first reported reaction to the inauguration of the broadcasts was to suspend the immigration agreement with the United States signed Dec. 14, 1984, the first major diplomatic accord between the two countries in seven years. The Cuban government also announced that it would suspend all visits to Cuba by U.S. citizens of Cuban origin, except for humanitarian reasons, and to reconsider its "spontaneous and unselfish" collaboration with the United States on hijacking matters. Finally, the Cubans also announced that they reserved the right to begin medium wave (AM) broadcasts to the United States of Cuban views on U.S. problems and foreign policy.

LEGISLATION

P.L. 99-33 (H.R. 1931/H.R. 2068)
State Department Authorizations, 1986 and 1987. Authorize appropriations for FY86 and FY87 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes. Open markup by House Foreign Affairs Subcommittee on International Operations held Mar. 26, 1985, prior to introduction Apr. 3, 1985. Marked up by Committee on Foreign Affairs Apr. 3, 1985, and ordered favorably reported by voice vote with an amendment in the nature of a substitute incorporating amendments adjusted by the full committee. Reported to House (H.Rept. 99-40) Apr. 11, 1985. Renumbered H.R. 2068 for technical reasons on Apr. 17, 1985. Passed by Senate, amended, on June 11, 1985 (80-17). Passed by House May 9, 1985. Conference report (H.Rept. 99-240) agreed to by Senate (voice vote) July 31, 1985, and by House (350-74) Aug. 1, 1985. Signed into law Aug. 16, 1985.

P.L. 99-180, H.R. 2965
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY86. Makes appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for FY86. Markups held by Subcommittee June 20, 1985, and by full Committee July 11, 1985. Reported to House (H.Rept. 99-197) July 11, 1985. Passed by House July 17, 1985 (273-136). Reported to Senate (S.Rept. 99-150) Oct. 4, 1985. Passed by Senate Nov. 1, 1985 (84-10). Conference report (H.Rept. 99-414) agreed to by House (voice vote) Dec. 5, 1985. Signed into law as P.L. 99-180 Dec. 13, 1985.

S. 1003 (Lugar)
Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. To authorize appropriations for the Department of

State, the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes. Open markup by Senate Foreign Relations Committee Apr. 2, 1985. Committee agreed to report consolidated draft bill as an original bill by a vote of 15-1. Reported to Senate (S.Rept. 99-39) Apr. 25, 1985. Considered by Senate June 6, 7, 10, and 11, 1985.

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MLC-028

SANCTIONS AGAINST SOUTH AFRICA: CURRENT LEGISLATIVE ISSUES

...Reagan announces sanctions...

Congressional action in U.S. policy toward South Africa has intensified with the growing turmoil in that country. The Senate and the House have passed legislation imposing sactions on Pretoria. A conference report on the legislation has already been approved in the House. Action in the Senate has been postponed, although sanctions being considered in the current legislation may be attached to other bills. If adopted, the measure could still face a Presidential veto and congressional efforts to override. President Reagan has announced limited sanctions by executive action in an attempt to head off a congressional override of his predicted veto.

The catalyst for heightened congressional interest was a series of South African developments in 1984 and 1985. The unrest in South Africa since September 1984 began as a reaction by South African blacks to the establishment of a new Parliament where Indians and coloureds (mixed race groups) in South Africa -- but not blacks -- would share power with whites on a national level. The South African government responded to violence in the black townships by declaring a state of emergency. The South African government, although showing restraint, reacted strongly, arresting large numbers of blacks conducting peaceful protests as well as those involved in violent clashes with police. Labor union leaders have been harassed, deaths in detention have occurred, and massive searches of private homes in the townships have been conducted. The government has also continued its forced relocation policy, although in recent months that policy has been reviewed and modified.

LEGISLATION

H.R. 1460 (Gray et al.)
Anti-Apartheid Act of 1985. Expresses the opposition of the United States to the system of apartheid in South Africa and calls for certain steps against Pretoria. Specifically, bans bank loans to and new investment in South Africa, bans the sale of South African krugerrands in the United States, and bans export sales to South Africa of computers, software, goods or technology intended to service computers. Bank loans and computer sales would take effect upon enactment and remain in force until the complete elimination of apartheid. New investment and krugerrand sales could be waived by the President if one of eight specified conditions were met by the South African government. The waiver would be for one year but could be extended for 6-month periods thereafter each time the South African government meets an additional condition. Waivers would require approval of both Houses of Congress.

On the floor two amendments were agreed to: H.Amdt. No. 63, introduced by Representative Zschau, encourages the President to consult with other countries on the implementation of future antiapartheid measures and requires annual reports from the President to Congress on the status of apartheid and human rights in South Africa. H.Amdt. No. 66, introduced by Representative Conyers, prohibits all nuclear assistance to South Africa, including equipment, material, and technology. Several other amendments were introduced on the floor but were rejected. These included mandatory Sullivan principles, prohibition of coal and uranium imports to the United States, relaxation of the ban on krugerrands (2 amendments), either polling or referendum for non-white South Africans to determine their position on divestiture and prohibition of new investments (2 amendments), prohibition of all U.S. investments in South Africa, prohibition of U.S. exports to South Africa, and barring the use of U.S. airfields to South African aircraft. The Gunderson Amendment, H.Amdt. No. 70, was also rejected. It would have added provisions similar to S. 995 introduced in the Senate by Senator Lugar.

Introduced Mar. 7, 1985; referred to Committees on Banking, Finance and Urban Affairs, on Foreign Affairs, and on Rules. Referred to Subcommittees on International Development Institutions and Finance, on International Economic Policy and Trade, on Human Rights and International Organizations and on Africa Mar. 15, 1985. Referred to Subcommittee on Financial Institutions Apr. 1, 1985. Foreign Affairs Committee reported to House with amendment (H.Rept. 99-76, part I) May 9, 1985. Rules Committee reported to House (H.Rept. 99-76, part II) May 15, 1985. Passed House, amended, June 5, 1985. Passed Senate July 11, 1985, in lieu of S. 995 but with the language of S. 995 substituted for the House language. Conference report (H.Rept. 99-242) filed Aug. 1, 1985. House agreed to conference report on the same day. Action delayed in Senate by the threat of a filibuster. Three cloture votes on Sept. 9, 11, and 12, 1985, in Senate failed to force a Senate vote on the conference report.

S. 635 (Kennedy et al.)
Introduced Mar. 7, 1985; referred to Committee on Banking. Hearings held Apr. 16, 1985. Subcommittee on International Finance held hearings May 24, 1985.

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S. 995 (Lugar et al.)
Expresses the opposition of the United States to the apartheid policies of South Africa and encouraged South Africa to abandon such policies.

On the floor two amendments were agreed to: S.Amdt. No. 516 authorizes the minting of U.S. gold coins to compete with krugerrand sales, requires the Secretary of State to report annually on implementation by U.S. companies of Sullivan Principles and extends the principles to include aspects of apartheid outside the workplace, and requires a U.S. study of health conditions and malnutrition in the South African homelands. S.Amdt. No. 520 describes steps the President can take to ensure compliance with Sec. 13's prohibition against computer exports, and provides penalties for individuals and companies in violation of that section. Several amendments were introduced on the floor but were rejected. These included (1) imposition of sanctions on signatories of the 1975 Helsinki accords, such as the Soviet Union, if they did not comply with Helsinki's human rights standards, (2) prohibition against economic sanctions if they would result in unemployment for South African blacks, (3) extension of sanctions to the Soviet Union, other countries with serious human rights violations, and countries encouraging terrorist attacks on Americans, and (4) declaration that the ANC is a terrorist organization and imposition of restrictions on its members. Introduced Apr. 24, 1985; referred to Committee on Foreign Relations. Committee reported with amendment, on June 28, 1985 (S.Rept. 99-99). On July 11, 1985, Senate passed H.R. 1460 in lieu of this measure, but substituting the language of S. 995 for the House language.

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MLC-029

U.S.-SOVIET RELATIONS IN A PERIOD OF SUMMITRY

...heightened danger...

The U.S.-Soviet relationship, the most complex and important of the world's bilateral relations, underwent a dramatic shift in 1985. From late 1979 through 1984 an atmosphere of crisis grew in U.S.-Soviet relations following the Soviet invasion of Afghanistan, the crisis in Poland, and the breakdown of nuclear arms control talks in Geneva in 1983.

This period, seen as a new cold war by many, reached a turning point with President Reagan's reelection, the accession of Mikhail Gorbachev in the Kremlin, the resumption of nuclear arms control talks, and the first Reagan-Gorbachev summit meeting.

Following the November 1985 summit meeting in Geneva, the leaders agreed to two future summit meetings: in the United States in mid-1986, and in the USSR in 1987. This decision provides a timetable and a forum for addressing the full range of issues on the agenda of U.S.-Soviet relations:

-- On nuclear as well as non-nuclear arms control there has been a good deal of progress in the past year, but there are still major unresolved differences over the new U.S. strategic defense concept, formulas for balanced arms reduction, and treaty compliance and verification.

-- The superpowers may continue to seek a mutually acceptable code of conduct, or even a modus vivendi, to mitigate conflict between them and their allies and clients, especially in the Third World.

-- The two states have reached agreements in principle to move forward in areas of trade, cultural exchange, and improved transportation and communication, but it remains to be seen how these and other bilateral agreements are implemented.

-- Soviet conduct in the area of human rights remains a major difference and a potential obstacle to improved U.S.-Soviet relations, but an improvement in the overall character of superpower relations may have a beneficial effect on the human rights situation as well.

Relations between the two superpowers bears directly on a number of issues of major interest to the Congress, such as: (a) the shaping and monitoring of U.S. foreign policy worldwide; (b) the military balance, arms control, and the defense budget; (c) East-West trade and technology transfer; and (d) human rights. All of these issues have been and will continue to be addressed by the 99th Congress.

The U.S.-Soviet military balance, perceptions of the Soviet threat, and arms control negotiations are prime determinants of U.S. defense posture and the defense budget, which received consideration in committees and on the floor of both Houses. MX, the most contentious single defense issue in recent years, remained controversial in 1985. This year Congress authorized a total of 50 MX missiles deployed in Minuteman silos. There was also debate over the level of funding for SDI and the overall level of defense spending.

The Congress continued its strong interest in arms control. On Jan. 3, 1985, the Senate approved S.Res. 19, recommending that the President include a bipartisan group of Senators as observers. When the negotiations opened in Geneva in March, a bipartisan congressional delegation was present. In addition, an earlier congressional ban on testing U.S. anti-satellite weapons against targets in space was extended.

The 98th Congress was unable to complete work on the extension and amendment of the Export Administration Act of 1979 (P.L. 97-72), which was due to expire at the end of 1983. This act is Congress' principal contribution to the regulation of East-West trade and technology transfer. Conferees failed to reconcile differences in bills passed by the House and

Senate in 1984. Among the more controversial issues were: guarantees of "contract sanctity"; extraterritorial export controls; stronger sanctions aganist violators of export control regulations, including import restrictions against non-complying foreign firms; the competing roles of the Commerce, Defense, and Treasury Departments in export control; and export controls against South Africa. On Apr. 3, 1985, the Senate passed S. 883, extending the 1979 Export Administration Act until June 15, 1985. On Apr. 16, 1985, the House passed H.R. 1786, which included most of the compromises adopted by the earlier conference committee, but excluded certain highly controversial provisions such as sanctions against South Africa and Defense Department review of export license applications for exports to other western countries. On June 25 House and Senate conferees reached agreement on a bill, which passed both Houses on June 27 and was signed into law (P.L. 99-64) on July 12, 1985.

In order to reduce the danger of Soviet espionage, an amendment was introduced to the State Department Appropriation Bill (H.Amend. 34) prohibiting the employment of Soviet citizens at U.S. diplomatic or consular missions in the U.S.S.R. Although the prohibitionary language was weakened by the Conference Committee to advise that "to the maximum extend possible," Soviet citizens not be employed, it is expected that the number of such Soviet employees will soon be cut by 50%.

In addition, Congress continued its active interest in human rights in the Soviet Union. Bills were approved proclaiming Helsinki Human Rights Day, Baltic Freedom Day, and solidarity with Soviet Jews. Bills were introduced to extend U.S.-sponsored broadcasting into the U.S.S.R. via Radio Liberty (H.R.423 and S.141), and on behalf of numerous individuals and groups in the U.S.S.R. whose human rights are being violated because of their religion, nationality, political, or moral beliefs.

LEGISLATION

P.L. 99-29, S.J.Res. 15

A resolution designating May 7, 1985 as "Helsinki Human Rights Day." Introduced Feb. 6, 1985. Passed by Senate March 28. Passed by House April 16. Signed by President as P.L. 99-29, Apr. 25, 1985.

P.L. 99-49, S.J.Res. 66

A joint resolution designating June 14, 1985, as "Baltic Freedom Day." Signed into law June 18, 1985.

P.L. 99-64, S. 883

A bill extending the authority of the Export Administration Act of 1979. S. 883 introduced and passed Apr. 3, 1985. Passed House (amended) Apr. 16, 1985. House incorporated H.R. 1786 as an amendment. Compromise bill agreed upon in conference. Passed House and Senate June 27, 1985. Signed into law July 12, 1985.

P.L. 99-81, S.J.Res. 161

A joint resolution to appeal for the release of Soviet Jewry. Signed into law Aug. 6, 1985.

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GOVERNMENT AND POLITICS

MLC-030

FY86 BUDGET PROPOSALS AND FEDERAL EMPLOYEES

...erosion of pay and benefits...

The Budget for FY86, submitted to the Congress by President Reagan on Feb. 4, 1985, proposed substantial cuts, that, if implemented in legislation, would affect Federal employees in terms of pay, retirement benefits, worker's compensation, reductions in Federal workforce, and health benefits. (Also, see Income Maintenance section "Civil Service Retirement System".)

The President's proposals would cut Federal pay by 5% and make substantial changes in the Civil Service Retirement System (CSRS), including the elimination of the FY86 cost-of-living allowance (COLA) for retirees, increase employee contributions to the CSRS, and change certain CSRS benefit computations to reduce entitlements. (See IB85062: Civil Service Retirement System: FY86 Budget.) Other cuts proposed by the Administration include reductions in agency personnel ceilings, and changes in the Federal Employees Health Benefits Program (FEHBP). (See IB83134: Federal Employees Health Benefits Program: Issues and Problems.)

Congressional action on the Administration's FY86 Budget began in the Senate, where changes were made in the President's civil service proposals by the Senate Budget Committee. Through a compromise agreement worked out by the White House and the Senate Republican leadership, the Senate's First Concurrent Budget Resolution (S.Con.Res. 32) gained preliminary approval on April 30 by a vote of 50 to 49. The Resolution eliminated the 5% pay cut in favor of a pay freeze (including within-grade pay increases) for FY86. The retirement COLA freeze was eliminated as well and replaced by a 3-year plan that would increase retirement COLA's by a minimum of 2% each year for FY86, FY87, and FY88 (with increases adjusted upward when the CPI goes above 4%). S.Con.Res. 32

also raised employee contributions to the CSRS from 7% to 9% of pay by FY87; made changes in the Federal Employees health benefits program (FEHBP); ordered a 4% workforce reduction through attrition; called for a 10% cut in Office of Personnel Management (OPM) administrative costs; and made the 2087 hours of work per annum permanent.

On May 2, the Senate approved an amendment to S.Con.Res. 32 that would restore the full COLA to civil service retirees for FY86. On May 9, the Senate approved S.Con.Res. 32 containing provisions cited above except that the restoration of the full CSRS COLA was eliminated in favor of a COLA freeze for FY86. On May 15, the House began markup on its First Concurrent Budget Resolution. (H.Con.Res. 152).

On May 20, the House Budget Committee reported out the First Concurrent Budget Resolution (H.Con.Res. 162; H.Rept. 99-133). On May 23, the House voted to approve H.Con.Res. 152, and agreed to substitute S.Con.Res. 32, as amended. The measure included a pay freeze for Federal civilian employees in FY86; a 2% Federal work force reduction, thru attrition; a continuation of the 2087 hours of work per annum provision; and changes in the Federal Employees Health Benefits Program (FEHBP). The House measure also included full cost-of-living allowances (COLA) increases for Federal retirees.

On June 25, House-Senate conferees on the FY86 Budget resolution reached an impasse on proposals dealing with cost-of-living allowances for social security recipients and Federal retirees, and broke off deliberations.

On Aug. 1, 1985, the House (309-119) and the Senate (67-32) agreed to a FY86 budget compromise, which contained the following provisions affecting the Federal civil service: a pay freeze for FY86; changes in the Federal Employees Health Benefits Program; a 4% workforce reduction over 3 years; the 2087 hours work-year made permanent; and a 10% cut in OPM administrative costs in FY86. All proposed changes to the CSRS were rejected.

On Sept. 18, 1985, the House Post Office and Civil Service Committee, pursuant to the Federal budget reconciliation process, approved its package of civil service program changes; on September 24, 1985, the Senate Governmental Affairs Committee did likewise. The House voted on a reconciliation bill (H.R. 3500) on Oct. 24, 1985; the Senate on its bill (H.R. 3128) on Nov. 24, 1985. A Conference Committee convened on Dec. 4 to resolve differences in these measures.

On Dec. 19, House and Senate Conferees agreed on a Conference Report and H.R. 3128 was forwarded to both Houses for final action. The final version of H.R. 3128 called for $75.5 billion in total budget reconciliation savings over three years, including $12.1 billion in reconciliation savings affecting the Federal civil service. Approved, in the Conference Report were:

-- A Federal civilian pay freeze in FY86;

-- Pay increases authorized in FY87 and FY88 (unspecified) in accordance with pay comparability process;

-- White-collar pay adjustment date of Jan. 1, extended three years;

-- Return 1.4 billion to the FEHB Reserve Fund (over three years);

-- Repeal the 75% maximum government contribution to FEHB plans, effective Mar. 1, 1986; and

-- 2087 annual hours of work made permanent.

Both Houses deadlocked on certain features in the Conference Report. On Dec. 20, 1985, the Senate, by voice vote, sent the bill back to another conference committee. The House did not respond before adjournment, leaving the issue to be resolved in January. Leaders in both parties expressed doubt that members would agree to further negotiations when Congress returns on Jan. 21, 1986. More likely, in their view, is that Federal budget cutting will begin anew, with the emphasis on the Gramm-Rudman-Hollings deficit reduction process.

On Dec. 11, 1985, the President signed into law the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act. The Act has several implications for Federal employees, although its full scope is still unclear. Reductions in COLA's for Federal retirees, and others have already taken place; cuts in health benefits, life insurance, as well as possible reduction-in-force and furlough action have been mentioned, but not yet quantified.

LEGISLATION

H.Con.Res. 152

House began markup on May 15 of its First Concurrent Budget Resolution. On May 20, the House Budget Committee reported the First Concurrent Budget Resolution (H.Rept. 99-133). On May 23, the House voted to approve H.Con.Res. 152, and agreed to substitute S.Con.Res. 32, as amended.

S.Con.Res. 32

Budget for the U.S. Government for fiscal years 1986, 1987, and 1988; and revising budget for fiscal year 1985. Reported in Senate Mar. 20. Approved Apr. 30 in 1st Senate vote, 50 to 49. Final Senate approval, May 9, Vice President broke tie vote of 49 to 49.

H.R. 3128 (Rostenkowski)

Deficit Reduction Amendments of 1985. Referred jointly to Ways and Means and Energy and Commerce July 31, 1985. Reported July 31, 1985 (Rept. 99-241). Passed House Oct. 31, 1985. In Senate, referred to Finance Committee Nov. 7, 1985. Reported Nov. 14; no written report. Passed Senate amended, Nov. 14, 1985. (Similar bills: H.Res. 301, H.Res. 330, S. 1730)

H.R. 3500 (Derrick)

Budget Reconciliation Act of 1985. Omnibus. Reported from Budget Committee Oct. 3, 1985; (rept. 99-300). Passed House Oct. 24, 1985. In Senate, ordered placed on the calendar Oct. 29, 1985. (Similar bills: H.Res. 296, S. 1730.)

James McGrath

MLC-031

PRESIDENTIAL VETOES AND RONALD REAGAN'S USE OF THE PROCESS IN HIS SECOND TERM

...six vetoes during the 99th Congress...

President Reagan has vetoed a total of 45 bills since he assumed office -- 15 bills during the 97th Congress, 24 more during the 98th Congress (See IB81174), and four bills, to date, during the 99th Congress (See IB85093).

President Reagan's first rejection of legislation passed by the 99th Congress came on Mar. 3, 1985 when he returned without his signature, H.R. 1096. This bill authorized emergency famine relief in Africa and provided domestically additional farm credit assistance. The assistance to farmers provided in this bill increased by 1.8 billion the amount of federal monies provided by the Federal farm loan guarantee program. It would have also spent $100 million to reduce interest rates on private farm loans guaranteed by the Federal farm program, revised some eligibility rules for these loan guarantees, and allowed farmers to get early advances on crop loans that they normally would not be eligible to receive until later in the fall of 1985.

President Reagan objected only to those sections of H.R. 1096 providing additional financial support to domestic farmers. The President described the farm sections of the bill as a "massive new bailout that would add billions to the deficit." The President was not opposed to those portions of this legislation relating to African famine relief. No Congressional override was attempted.

The President's second veto occurred on Nov. 8, 1985. The legislation vetoed by the President was H.R. 2409, a bill to amend the Public Health Service Act and to revise and extend programs for the National Institutes of Health, medical research, health planning and promotion, and for other purposes. The President vetoed this legislation because he thought it imposed too many restrictions and program requirements on biomedical research programs, established "unneeded" organizations, and imposed uniform guidelines on all research institutes, thus diminishing their administrative flexibility. The House overrode the President's veto (380-32) Nov. 12, 1985. The Senate overrode the veto (89-7) Nov. 20, 1985. The bill passed over the President's objections and became P.L. 99-158.

The third veto of the 99th Congress occurred on Nov. 15, 1985 when the President returned to Congress H.R. 3036. This bill provided appropriations for the Department of the Treasury, the United States Postal Service, the Executive Office of the President and for certain independent agencies for FY86.

The President rejected this bill because it exceeded the Administration's proposed overall spending level by $900 million. Most of this amount would have provided a postal subsidy opposed by the President. No override attempt occurred.

President Reagan's fourth veto of the 99th Congress took place on Dec. 17, 1985. The vetoed bill was H.R. 1562, the Textile and Apparel Trade Enforcement Act of 1985. This legislation would have limited imports of textiles and textile products into the United States and would have provided for annual adjustments to the growth of such imports. In addition, it instructs the Secretary of Commerce to establish an imports licensing system for such imports.

The bill was vetoed because in the President's opinion, it would "invite immediate (trade) retaliation against our exports resulting in a loss of American jobs in other (manufacturing) areas." Congress made no effort to override this veto.

The President's fifth veto was of H.R. 1404, a bill to establish the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Service Training Center at Cape Charles, Virginia.

The President did not object to the section of the bill that statutorily recognized a protective refuge at Cape Charles. What he did object to was the establishment of a new training facility when others, federally and privately sponsored, were already in operation elsewhere. Additional Federal expenditures for this new center was in the President's opinion, unwarranted.

H.R. 3384, was President's Reagan's six veto of this Congress. H.R. 3384, the Federal Employees Health Benefits Improvement Act of 1985, would have increased the maximum Government contribution for an enrollee in the Federal Employee Health Benefit Plan from 75% to 100% of the subscription charge and it would also allow for changes in the Law to allow rebates to Federal annuitants. The President's veto was prompted by two sections of this bill. First, he disapproved of the increased Federal contribution to the health plan and second, he opposed payments to a nurse or nurse-midwife without the consent and referral of another health practitioner. The President, in his veto message to Congress, stated his approval of the legislation providing these objectionable sections were removed. Congress did not attempt to override this veto.

Gary L. Galemore
IB85093

MLC-032

SENATE PROCEDURE AND ORGANIZATION: PROPOSALS FOR CHANGE IN THE 99TH CONGRESS

...Hearings held on Senate T.V. ...

Proposals for televising Senate floor proceedings date from the 1940s. Since the House of Representatives began televising its floor proceedings in 1979, this issue has received extensive legislative deliberation in the Senate. (For legislative and historical background, see Archived Issue Brief 83044.)

Proponents of televising the Senate floor proceedings have argued that doing so would improve public knowledge about, public respect for, and the national influence of, the Senate. They note Senate coverage would complement the system that now exists in the House, thereby providing the public with a more complete view of how both Houses of Congress operate.

Those opposed to televising Senate floor proceedings have expressed concern about the impact of television on the quality of Senate deliberations. They argue television will induce Senators to debate less spontaneously, speak more frequently and at greater length. Opponents also fear the deliberate, sometimes intermittent, and slow pace of Senate proceedings will be misunderstood by a public accustomed to the fast pace of television programs.

The Senate Committee on Rules and Administration held hearings on Sept. 17 and 18, 1985, on two proposals to televise Senate proceedings, receiving testimony from Senators Byrd, Armstrong, and Gore in favor of Senate television, and Senator Long in opposition. Representatives from television networks and media organizations also testified in favor of televising Senate proceedings.

The first proposal before the Committee was S.Res. 29, introduced by Minority Leader Robert Byrd. Senator Byrd's proposal would permit the televising of only selected floor proceedings chosen jointly by the Majority and Minority Leaders and approved by the Senate in the form of non-debatable joint leadership motions. Senator Byrd has also introduced S.Res. 2 and S.Res. 28. Those two measures contain the identical language on Senate television but combine it with recommendations for a series of changes in the Senate's rules and procedures in anticipation of television coverage.

The second proposal receiving Committee consideration was S.Res. 81, introduced by Senator William Armstrong. It provides for continuous, gavel-to-gavel television coverage, to be instituted after a trial period. It recommends no additional changes in Senate rules or procedures.

LEGISLATION

S.Res. 2 (Byrd)
Amends Standing Rules of the Senate to improve Senate procedures. Includes authorizing Senate television. Submitted Jan. 3, 1985; held at the desk.

S.Res. 28 (Byrd)
Identical to S.Res. 2. Submitted Jan. 3, 1985; referred to the Committee on Rules and Administration.

S.Res. 29 (Byrd, et.al.)
Provides for television and radio broadcast coverage of Senate floor proceedings (identical to sections of S.Res. 2 and S.Res. 28). Submitted Jan. 3, 1985; referred to the Committee on Rules and Administration. Hearings held on Sept. 17 and 18, 1985.

S.Res. 81 (Armstrong)
Authorizes television and radio coverage of the Senate. Submitted Feb. 27, 1985; referred to the Committee on Rules and Administration. Hearings held on Sept. 17 and 18, 1985.

Ilona Nickels

HEALTH

MLC-033

BIOMEDICAL RESEARCH: NATIONAL INSTITUTES OF HEALTH

...reauthorization measure passed...

The National Institutes of Health (NIH) is the principal medical research arm of the Federal Government. Its programs support basic and applied scientific inquiry on all phases of human diseases and disabilities, as well as investigations into fundamental biological processes and the biological effects of the environment. In addition, NIH sponsors training and career development of researchers, evaluation and dissemination of health information, construction of cancer research facilities, and improvements in computer and information science for biomedicine.

In 1985, legislation was passed which revised the statutory authority of NIH. Previously, the agency as a whole operated under the authority of section 301 of the Public Health Service Act (PHSA), which gives the Secretary of the Department of Health and Human Services broad permanent authority to conduct and promote research on diseases. In addition, several Institutes and programs within NIH were specifically authorized under Title IV of the PHSA and required periodic reauthorization by Congress.

The authorization of appropriations for the National Cancer Institute (NCI), the National Heart, Lung, and Blood Institute (NHLBI), and the Medical Library Assistance program of the National Library of Medicine (NLM) expired at the end of FY82. Authorizations for several additional NIH programs expired at the end of FY83, including selected arthritis, diabetes, and digestive diseases activities of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK) and the National Research Service Awards (training grant) program. Congress could not agree on reauthorizing legislation in 1982 and 1983, so appropriations for the unauthorized programs were provided by the continuing resolutions for FY83 and FY84. For FY85, the programs were all covered under the regular appropriations Act for the Departments of Labor, Health and Human Services, Education, and related agencies (P.L. 98-619), even though they remained unauthorized.

The 98th Congress passed a reauthorization measure in October 1984, but it was pocket vetoed by the President. That bill (S. 540) represented major compromises between supporters of two earlier bills, H.R. 2350 and S. 773, that differed greatly in the extent of organizational change proposed for NIH. In addition to reauthorizations, S. 540 contained provisions establishing two new institutes at NIH, one for arthritis, musculoskeletal, and skin diseases and one for nursing. It also made adjustments in NIH's statutory authority and specified activities in a number of research areas. The President objected to the new organizational entities as unnecessary and expensive, and also criticized the bill's new requirements for the management of research.

In the 99th Congress, bills very similar to S. 540 were reintroduced. The House bill (H.R. 2409) was nearly identical to the vetoed bill, while the Senate bill dropped the proposed National Institute of Nursing and incorporated several minor modifications or deletions to respond to some of the Administration's objections to S. 540. Conferees agreed on a compromise version, but the measure was again vetoed by the President. Congress, however, overrode the veto, and the Health Research Extension Act of 1985 became law (P.L. 99-158). It revises the description of NIH in Title IV of the PHSA and authorizes appropriations through FY88 for NCI, NHLBI, the library program, and the NRSA training grants. It creates a new National Institute of Arthritis and Musculoskeletal and Skin Diseases and a new National Center for Nursing Research, and has specific provisions regarding a number of research areas.

The FY86 appropriation for NIH, as passed in December 1985, was $5.50 billion (subject to sequestration by P.L. 99-177, Gramm-Rudman-Hollings Emergency Deficit Control Act), an increase of 6.7% over the FY85 level of $5.15 billion. The FY85 appropriation, in turn, had represented a 14.6% increase over the FY84 level, with much of the additional funding targeted by the Appropriations Committees for support of approximately 6,500 new and competing research project grants. In December 1984, the Office of Management and Budget (OMB) directed NIH to support only 5,000 such grants in FY85 and to use the surplus funds for multi-year awards to approximately 646 of the 5,000 grants. The General Accounting Office (GAO) ruled in March 1985 that this "forward-funding" of grants was unlawful. At the same time, GAO ruled that NIH was not legally bound to support 6,500 new and competing grants, because the level was not specified in the FY85 appropriations statute.

Congressional reaction to the OMB proposal was largely negative. Early in the session, joint resolutions were introduced in both the House and the Senate to overturn the OMB directive and require that NIH receive its full funding for research project grants as appropriated. Meanwhile, negotiations were also underway between the Appropriations Committees and the Administration in an effort to reach a compromise on the level of grants for both FY85 and FY86. Agreement was finally reached in July, and the compromise level for FY85 was written into the FY85 Supplemental Appropriations Act (H.R. 2577, P.L. 99-88, Aug. 15, 1985). The Act specified that at least 6,200 new and competing grants be supported in FY85, with no more than $20 million of the appropriation to be carried over to FY86.

The FY86 appropriation (P.L. 99-178) was signed into law on Dec. 12, 1985, and specified support of no fewer than 6,100 new and competing research projects. However, implementation of the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177) will reduce the appropriation by 4.3%. Total funding available to

NIH for FY86 equals the appropriation of $5.5 billion, less the amount sequestered under the deficit reduction provisions (some $236 million), plus approximately $11 million carried over from the FY85 appropriation (not subject to sequestration), for a total of approximately $5.27 billion. The precise effects of the deficit control reductions on numbers of grants, size of grants, the intramural program, and other program areas have yet to be determined. [For further details on the budget, see the NIH section in IB85091, Research and Development: Federal Agency Funding, FY86 Budget.]

LEGISLATION

P.L. 99-158, H.R. 2409

Health Research Extension Act of 1985. Reauthorizes selected programs of the National Institutes of Health through FY88. Creates a new National Institute of Arthritis and Musculoskeletal and Skin Diseases and a new National Center for Nursing Research. Makes numerous adjustments and additions to other NIH activities. Introduced as a clean bill after markup and approval by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, May 7, 1985. Marked up by full committee, May 15. Reported, amended, June 4 (H.Rept. 99-158). Passed House under suspension of rules by voice vote, June 17. Measure laid before Senate by unanimous consent, July 19. Senate struck all after the Enacting Clause and substituted the language of S. 1309 as amended. Passed Senate in lieu of S. 1309 with an amendment by voice vote, July 19, 1985. Conference reports filed in House (H.Rept. 99-309) and in Senate (S.Rept. 99-157) Oct. 11. Senate agreed to conference report Oct. 18; House agreed Oct. 23. Measure vetoed by the President Nov. 8. House overrode veto Nov. 12. Senate overrode veto Nov. 20. Measure became law Nov. 20, 1985.

P.L. 99-178, H.R. 3424

Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1986. Reported by House Committee on Appropriations (H.Rept. 99-289) Sept. 26, 1985. Passed House, amended, Oct. 2. Reported, with amendments, by Senate Committee on Appropriations (S.Rept. 99-151) Oct. 4. Passed Senate, amended, Oct. 22. Conference report (H.Rept. 99-402) filed Nov. 21, to which House and Senate agreed Dec. 5 and 6, 1985. Signed into law Dec. 12, 1985.

S. 1309 (Hatch)

Health Research Extension Act of 1985. Reauthorizes selected programs of the National Institutes of Health through FY88. Creates a new National Institute of Arthritis and Musculoskeletal and Skin Diseases, and makes numerous adjustments and additions to other NIH activities. Introduced and referred to Committee on Labor and Human Resources, June 17, 1985. Reported to Senate without amendment, July 8, Written report filed (S.Rept. 99-108), July 15. Passed Senate with an amendment by voice vote, July 19. Senate vitiated previous passage, substituted language of S. 1309 into H.R. 2409 as an amendment, and passed H.R. 2409 in lieu July 19, 1985.

Pamela W. Smith

MLC-034

HEALTH SERVICES AND RESOURCES PROGRAMS: FY86 BUDGET

...provision to freeze funding levels proposed...

Health services programs include those which provide a variety of personal health services to population groups or areas with special health care needs, as well as those intended to prevent and control diseases. The majority of these programs are contained in four health block grants: Maternal and Child Health; Alcohol, Drug Abuse, and Mental Health; Preventive Health; and Primary Care. Health resources programs provide support for health professions training, development assistance for Health Maintenance Organizations (HMOs) and support for the health planning activities of State and local health planning agencies.

The President's FY86 budget proposal froze funding levels for certain health services and resources programs and ended funding for others. Health block grants, for example, had their funding levels frozen at FY85 levels. The President's budget ended funding for health professions education and nurse training programs. In the aggregate, the FY86 budget proposal reduced health services and resources programs from $2.14 billion to $1.85 billion, or by 13.3%. On May 6 and Sept. 11, 1985, legislation was introduced (H.R. 2358, S. 1642, S. 1643, and S. 1644) embodying the President's proposals for health services and resources programs.

On Aug. 1, 1985, the House and Senate approved the First Concurrent Resolution on the Budget for FY86. The agreement, in general, assumed FY85 funding levels for health services and resources programs, with increased funding for certain low income/ high priority programs. On Dec. 12, 1985, the President signed H.R. 3424 (P.L. 99-178), the Departments of Labor, Health and Human Services, and Education appropriations bill, which provides FY86 appropriations for health services and resource programs, in general, at the FY85 funding levels.

The first session of the 99th Congress considered legislation passed by the 98th Congress but vetoed by the President to revise and extend the health professions education program, the nurse training program, the National Health Service Corps program, the community health centers program, and the HMO program. On Aug. 16, 1985, the President signed the Nurse Training Ammendments of 1985, which reauthorizes nurse training programs for three fiscal years. The President also signed legislation to revise and extend health professions education programs on Oct. 22, 1985.

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), most programs within the Health Services and Resources Administration, including the health block grants, are subject to the uniform percentage sequestrations applied to the non-defense portion of the Federal budget. Certain programs, however, are treated under special rules. Specifically, community health centers, migrant health center, and Indian health services and facilities are limited to a maximum percentage reduction of 1% in FY86 and 2% in all subsequent years.

LEGISLATION

P.L. 99-92, H.R. 2370
Nurse Education Amendments of 1985. Revises and extends nurse education programs for three fiscal years. H.R. 2370 passed the House July 15, 1985; passed the Senate July 22. House agreed to Senate amendments July 31, 1985. Signed into law Aug. 16, 1985.

P.L. 99-129, H.R. 2410
Health Professions Educational Assistance Amendments. Revises and extends health professions education programs. H.R. 2410 passed House July 15, 1985; passed Senate July 19, 1985. Signed into law Oct. 22, 1985.

P.L. 99-178, H.R. 3424
Departments of Labor, Health and Human Services, and Education and Related Agences Appropriations Act, 1986. Reported by House Committee on Appropriations (H.Rept. 99-289) Sept. 26, 1985. Passed House, amended, Oct. 2. Reported, with amendments, by Senate Committee on Appropriations (S.Rept. 99-151) Oct. 4. Passed Senate, amended, Oct. 22. Conference report (H.Rept. 99-402) filed Nov. 21, to which House and Senate agreed Dec. 5 and 6. Signed into law Dec. 12, 1985.

H.R. 2237 (Richardson)
Revises and extends the National Health Service Corps for 3 years. Introduced Apr. 25; referred to Committee on Energy and Commerce. Reported May 23, 1985 (H.Rept. 99-144).

H.R. 2369 (Waxman)
Revises and extends the family planning program for three fiscal years. Introduced May 6, 1985; referred to Committee on Energy and Commerce. Reported June 4, 1985 (H.Rept. 99-159).

H.R. 2417 (Waxman)
Health Maintenance Organizations Act of 1985. Revises and extends the HMO program. Introduced May 8, 1985; referred to Committee on Energy and Commerce. Reported June 3, 1985 (H.Rept. 99-154). Passed House June 18, 1985.

H.R. 2418 (Waxman)
Health Services Amendments Act of 1985. Revises and extends the community and migrant health centers programs for three fiscal years and repeals the primary care grant authority. Introduced May 8, 1985; referred to Committee on Energy and Commerce. Reported June 4, 1985 (H.Rept. 99-157).

H.R. 3010 (Waxman)
Revises and extends the health planning authority for one year. Introduced July 16, 1985; referred to Committee on Energy and Commerce. Ordered reported Nov. 5, 1985.

S.Con.Res. 32 (Domenici)
First Concurrent Resolution on the Budget. Among other things, assumes FY85 funding levels for health services and resources and resources programs with increased funding for certain low income/ high priority programs. Introduced Mar. 20, 1985; referred to Committee on the Budget. Reported (S.Rept. 99-15) Mar. 20. Passed Senate May 9, 1985. House version, H.Con.Res. 152 (W. Gray), passed House May 23; then S.Con.Res. 32 was passed in lieu, with provisions of the House bill inserted. Conferences held. Conference report (H.Rept. 99-249) agreed to by both Houses Aug. 1, 1985.

S. 1282 (Hatch)
Primary Care Amendments of 1985. Revises and extends community and migrant health centers programs for three fiscal years and repeals the primary care grant authority. Introduced June 12, 1985; referred to Committee on Labor and Human Resources. Reported July 15 (S.Rept. 99-109). Passed Senate July 15, 1985.

S. 1285 (Hatch)
Revises and extends the National Health Services Corps program for 3 years. Introduced June 12, 1985; referred to Committee on Labor and Human Resources. Reported July 15 (S.Rept. 99-107). Passed Senate July 19, 1985.

S. 1762 (Hatch)
Revises and extends the HMO program. Introduced Oct. 10, 1985; referred to Committee on Labor and Human Resources. Ordered reported Nov. 19, 1985.

S. 1855 (Quayle)
Health Planning and Resource Allocation Act of 1986. Amends Title XV (health planning program) to provide for a 3-year program of health planning grants for States that to participate. Introduced Nov. 18, 1985; referred to Committee on Labor and Human Resources. Reported Dec. 18, 1985 (S.Rept. 99-224).

[See CRS Issue Brief 85046.]

Richard J. Price

MLC-035

MEDICAID

...a deficit reduction agreement reached...

Medicaid is a federally aided, State-operated and administered program of medical assistance for 22 million low-income persons. States establish, subject to Federal guidelines, eligibility requirements and scope of benefits. In FY84, Federal program expenditures were $20.1 billion and State expenditures were $17.5 billion for a total of $37.6 billion. Federal current law outlays are estimated at $22.6 billion in FY85 and $23.8 billion in FY86.

The President's FY86 budget included outlines of legislative and regulatory proposals designed to achieve a reduction of $1.5 billion in Federal Medicaid outlays in FY86. Federal savings would be achieved primarily through a proposed limitation on Federal medical assistance payments of $22.2 billion. This limit represented a $1.3 billion reduction in Federal payments for benefits over current spending projections. Estimates of expenditures and savings were computed from an earlier outlay estimate.

On Aug. 1, 1985, the House and Senate agreed to S.Con.Res. 32, the First Concurrent Resolution on the Budget. The agreement included Medicaid savings of $80 million in FY86, $180 million in FY87, and $190 million in FY88, for a 3-year total of $450 million. The agreement assumed that a portion of these savings would be achieved through improved third-party liability collections. On Aug. 1, 1985, the Energy and Commerce Committee reported H.R. 3101, which included several Medicaid provisions. The provisions of this bill were subsequently incorporated into H.R. 3290, which was introduced Sept. 12, 1985. The provisions of H.R. 3290 were incorporated in Title I of H.R. 3128 which was passed by the House on Oct. 31, 1985.

On Sept. 20, 1985, the Senate Finance Committee reported a budget reconciliation measure (no bill number). This package was subsequently incorporated in the Consolidated Omnibus Budget Reconciliation Act of 1985 (S. 1730) which was reported by the Senate Budget Committee Oct. 2, 1985. On Nov. 14, 1985, the Senate amended and passed H.R. 3128 in lieu by substituting the text of S. 1730 for the House-passed provisions. The Conference Committee issued its report Dec. 18, 1985. This measure did not receive final approval in the House during the first session. The conference agreement includes provisions expanding eligibility of pregnant women, improving third-party liability collections, and making some modifications in the home and community-based waiver provisions.

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), Federal Medicaid matching grants to the States -- both for program benefits and State administrative expenses -- are exempt from sequestrations. Federal Medicaid administrative expenses, however, are fully sequesterable, subject to the uniform reduction percentages for nondefense programs.

LEGISLATION

S.Con.Res. 32 (Domenici)

First Concurrent Resolution on the Budget. Among other things, assumes $450 million in Medicaid savings over the FY86-FY88 period. Introduced Mar. 20, 1985; referred to Committee on the Budget. Reported Mar. 20, 1985 (S.Rept. 99-15). Passed, as amended, May 9, 1985. Called up by unanimous consent in House. Passed, amended, with language of H.Con.Res. 152 substituted, May 23. Conferences held. Conference report (H.Rept. 99-249) agreed to by both Houses Aug. 1, 1985.

H.R. 3128 (Rostenkowski)

Consolidated Omnibus Budget Reconciliation Act of 1985. Among other things, extends mandatory Medicaid coverage to include prenatal, delivery, and post-partum services to pregnant women in two-parent families that meet AFDC income and resource standards where the principal earner is not unemployed; allows States the option of providing hospice services under their Medicaid programs; modifies certain home and community-based services waiver requirements, provides for an annual rather than biennial calculation of the Medicaid matching rate; and requires the Secretary to submit a report describing the methodology used by States to take into account the situation of disproportionate share hospitals when determining their Medicaid payments to hospitals. H.R. 3101 reported by the Energy and Commerce Committee Aug. 1, 1985 (H.Rept. 99-265, Part 1). H.R. 3290, incorporating provisions of H.R. 3101, introduced Sept. 12, 1985; referred to Committees on Ways and Means and on Energy and Commerce. Provisions of H.R. 3290 incorporated in H.R. 3128, which passed House on Oct. 31, 1985. S. 1730 reported by Senate Budget Committee Oct. 2. On Nov. 14, 1985, the Senate amended and passed H.R. 3128 in lieu by substituting the text of S. 1730 for the House-passed provisions. Reported by Conference Committee Dec. 18, 1985. On Dec. 19, 1985, the Senate passed the conference report. On the same date, the House rejected the conference report, receded from its amendment and concurred in the Senate amendment with an amendment returning it to the Senate. The Senate concurred in the amendment of the House with an amendment in the nature of the substitute to the Senate amendment to the House. The House disagreed to the Senate amendment to the House amendment to the Senate amendment. On Dec. 20, 1985, the Senate insisted on its amendment and requested a conference with the House.

[See Issue Brief 85057.]

Jennifer O'Sullivan

MLC-036

MEDICARE

...largest health care financing program in the nation...

Medicare is a nationwide health insurance program for 27.5 million aged and 2.9 million disabled individuals. Medicare is the largest health care financing program in the United States and, except for Social Security, is the largest entitlement program in the Federal budget. Current law outlays are estimated at $62.7 billion in FY84, $70.8 billion in FY85, and $77.6 billion in FY86. The Medicare program consists of two parts: Hospital Insurance (Part A) which helps pay for inpatient hospital services, skilled nursing facility services, home health services, and hospice care; and Supplementary Insurance (Part B) which helps pay for physician services, outpatient hospital services, laboratory services, and other medical and related services.

The Administration's FY86 budget included regulatory initiatives designed to achieve a reduction in Medicare program outlays of $10 million in FY85 and $2.1 billion in FY86. Proposed legislative initiatives were designed to achieve a savings of $10 million in Federal outlays for Medicare in FY85 and $1.8 billion in FY86. An additional legislative proposal was designed to increase income to the program by $332 million in FY86. (These savings were computed from an earlier outlay estimate.) The Administration's Medicare budget initiatives reflected the overall theme of the FY86 budget which was to constrain Government spending in order to reduce the Federal deficit. Savings in the Medicare program were to be achieved primarily through freezes in reimbursement levels. Proposed implementing legislation, S. 1550, was introduced Aug. 1, 1985, by Senator Durenberger.

On Aug. 1, 1985, the House and Senate approved the First Concurrent Resolution on the Budget, S.Con.Res. 32. The agreement included Medicare savings of $2.5 billion in FY86, $3.5 billion in FY87, and $5.0 billion in FY87. No assumptions were built into the agreement regarding how the Medicare savings were to be achieved. Both House Committees on Ways and Means and on Energy and Commerce reported separate bills relating to the requirements of the FY86 budget resolution. The House Ways and Means Committee bill, H.R. 3128, was reported on July 31, 1985. The Energy and Commerce bill, H.R. 3101, was reported on Aug. 1, 1985. The provisions of both bills were subsequently incorporated into H.R. 3290, which was introduced on Sept. 12, 1985. The provisions of H.R. 3290 were incorporated in Title I of H.R. 3128, which passed the House on Oct. 31.

On Sept. 20, 1985, the Senate Finance Committee reported a budget reconciliation measure (no bill number). This package was subsequently incorporated in the Consolidated Omnibus Budget Reconciliation Act of 1985 (S. 1730) which was reported by the Senate Budget Committee Oct. 2, 1985. On Nov. 14, 1985, the Senate amended and passed H.R. 3128 in lieu by substituting the text of S. 1730 for the House-passed provisions.

The Conference Committee issued its report Dec. 18, 1985. The measure did not receive final approval in both Houses during the first session. The issues in controversy centered around non-Medicare provisions. The conference report included provisions which would modify reimbursement to hospitals, extend the current physician fee freeze for nonparticipating physicians (physicians who do not voluntarily agree to accept Medicare "reasonable charge" determination as payment in full for all claims for the forthcoming year), and extend until 1988 the temporary provision of law under which Part B enrollee premiums are to produce premium income equal to 25% of program costs.

Under the special rule for sequestrations of Medicare benefits in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), Medicare outlays for covered services would be reduced by a maximum of 1% for FY86 and 2% for each later year in which there is sequestration. According to P.L. 99-177, however, Medicare administration expenses are fully sequesterable and are subject to the uniform reduction percentages for non-defense programs.

LEGISLATION

S.Con.Res. 32 (Domenici)

First Concurrent Resolution on the Budget. Includes $11 billion in Medicare savings over the FY86-FY88 period. No assumptions are built into the agreement as to how the savings are to be achieved. Introduced Mar. 20, 1985; referred to Committee on the Budget. Reported Mar. 20, 1985 (S.Rept. 99-15). Passed Senate, amended, May 9, 1985. Called up by unanimous consent in House. Passed House, amended, with language of H.Con.Res. 152 substituted, May 23. Conference report (H.Rept. 99-249) agreed to by both Houses Aug. 1, 1985.

H.R. 3128 (Rostenkowski)

Consolidated Omnibus Budget Reconciliation Act of 1985. Among other things, includes a number of provisions affecting hospital reimbursement including those which change the hospital rate of increase, establish a disproportionate share adjustment, modify the indirect teaching adjustment, delay the transition to national rates, and modifying payments for direct medical education. The measure also includes provisions that would extend the fee freeze for nonparticipating physicians; extend the temporary provision of law under Part B under which enrollee premiums are to produce premium income equal to 25% of program costs; place a limit on regional fee schedule rates for clinical laboratory services; mandate Medicare coverage for newly hired and local employees; and provide for a study of physician payments. H.R. 3128 reported by House Ways and Means Committee July 31, 1985 (H.Rept. 99-241, Part 1). H.R. 3101 reported by House Energy and Commerce Committee Aug. 1, 1985 (H.Rept. 99-265, Part 1). H.R. 3290, incorporating both House Committees' provisions, introduced Sept. 12, 1985; referred to Committees on Ways and Means and on Energy and Commerce. Provisions of H.R. 3290 incorporated in H.R. 3128 which passed House on Oct. 31, 1985. S. 1730 reported by Senate Budget Committee on Oct. 2, 1985. On Nov. 14, 1985, the Senate amended and passed H.R. 3128 in lieu by substituting the text of S. 1730 for the House-passed provisions. Reported by Conference Committee Dec. 18, 1985. On Dec. 19, 1985, the Senate passed the conference report. On the same date, the House rejected the conference report, receded from its amendment and concurred in the Senate amendment with an amendment returning it to the Senate. The Senate concurred in the amendment of the House with an amendment in the nature of the substitute sending it back to the House. The House disagreed to the Senate amendment to the House amendment to the Senate amendment. On Dec. 20, 1985, the Senate insisted on its amendment and requested a conference with the House.

S. 1550 (Durenberger, by request)
Health Care Financing Cost Reduction Amendments. (Administration bill.) Extends the freeze on physician payments, reduces amounts paid for indirect medical education, freezes payments for clinical lab services and routine costs of skilled nursing facilities, gradually increases the beneficiary contribution to Part B premiums to 35% or program costs, and indexes the Part B deductible. Introduced Aug. 1, 1985; referred to Committee on Finance.

[See CRS Issue Brief 85047.]

Jennifer O'Sullivan

MLC-037

MEDICARE HOSPITAL INSURANCE: THE FINANCING PROBLEM

...expected future deficits reduced but not eliminated...

The Hospital Insurance (HI) portion of the Medicare program, which provides protection against certain health expenses for almost 30 million Americans, accounts for nearly two-thirds of annual program expenditures. The principles employed in financing the Hospital Insurance program are similar to those employed by the Social Security cash benefit programs. Benefit outlays and administrative expenses are expected to be sustained, over the long run, by the payroll taxes paid by workers and their employers (and the self-employed) into a Hospital Insurance Trust Fund. However, since its inception in 1965, annual projections of the financial condition of the HI program have shown funding deficits for future years. In each of the last 4 years, Congress has passed legislation to help reduce long-range deficits in the HI program, and while these have resulted in important improvements in program financing, they have not been sufficient to show long-run (25-year) actuarial balance in the program.

While much improved over the 1984 assessment, the 1985 report of the trustees of the Hospital Insurance Trust Fund projects a continued actuarial deficit in the program's financing over a 25-year period. According to intermediate assumptions used in this report, the HI Trust Fund would be depleted in 1998. This represents a substantial improvement over the 1984 report which projected trust fund depletion in 1991. This improvement resulted from: (1) lower increases in Medicare payment rates to hospitals, (2) favorable program experience in 1984, and (3) changes in economic and demographic assumptions. The 1985 trustees' report projects a buildup in the trust fund through 1992. For every year after that, program expenditures are projected to exceed revenues, with resulting declines in the trust fund balances. Thus, unless further steps are taken to increase program revenues or reduce expenditures (or some combination thereof), the HI Trust Fund could be exhausted by 1998.

Congress has dealt with the financing problems of the Hospital Insurance program over the years both by raising revenues and by reducing program expenditures. Historically, most steps to raise revenue have involved either increases in and acceleration of scheduled Hospital Insurance tax rates or increases in the maximum amount of taxable earnings. For example, in 1983 Congress doubled the tax rate on earnings in self-employment. In addition, in 1981, Congress broadened the earnings base that is subject to such taxation (e.g., by extending HI coverage to employment with the Federal Government).

Legislative attempts to reduce program expenditures have taken various approaches including: (1) changes in reimbursement policies or procedures that have reduced the level of payments under Hospital Insurance to the providers of covered services, (2) changes in patient cost-sharing responsibilities (i.e., increases in the deductible and coinsurance amounts) that directly transfer some portion of the costs of services to those who receive them; and (3) changes in the program's benefit design that have shifted the obligations of the HI program for certain expenses to other sources of payment (e.g., to workers compensation programs, automobile insurance contracts and employer-based health benefit plans).

The quadrennial Advisory Council on Social Security, which was appointed by the Secretary of

Health and Human Services to examine the problem of Medicare financing, issued its final report on Feb. 21, 1984. This report includes 27 policy recommendations with an estimated cumulative impact on the HI program of more than $180 billion in deficit reductions over the period 1985 to 1995. Nearly five-sixths of the estimated effect is due to expenditure reductions anticipated as a result of certain proposed changes in the Medicare hospital prospective payment system and proposed delays in the age of entitlement to HI benefits. Most of the remaining effect is expected in the form of revenue increases anticipated from introduction of an optional beneficiary premium designed to cover the cost of benefit enhancements included in a proposal to restructure HI benefits.

Hearings on the Advisory Council's report were held by the Subcommittee on Health of the House Committee on Ways and Means on Mar. 30, 1984, and by the Senate Committee on Finance on Apr. 9, 1984. Further hearings on the Medicare financing crisis were held by the Subcommittee on Health of the House Committee on Ways and Means Sept. 13, 1984.

LEGISLATION

The trends reflected in the 1985 trustees report, showing a substantially improved short-run outlook for the HI trust fund, effectively shifted the focus of Medicare debate. Concern over Medicare financing now centers on the effects of program outlays on overall budget deficits rather than on trust fund adequacy. However, a direct relationship exists between program outlays and trust fund balances. Program changes that reduce expenditures also increase trust fund balances and push farther into the future the year for projected trust fund depletion. Accordingly, legislation currently being considered with a substantial impact on Medicare financing is contained in H.R. 3128, the FY86 budget reconciliation bill now in conference. (See Medicare MLC entry for a summary of the legislation.)

[See CRS Issue Brief 85013.]

Julian Pettengill

HOUSING

MLC-038

HOUSING ASSISTANCE TO LOW- AND MODERATE-INCOME HOUSEHOLDS

...2-year moratorium proposed...

Since 1937, the Federal Government has been helping to provide housing for low- and moderate-income families. During much of this time, its efforts were directed toward promoting new construction, through subsidy of capital costs in public housing or of interest rates in privately built housing for moderate income families. In the 1960s, dissatisfaction with public housing projects led to rental subsidies for leased units in existing housing, and then to rent supplement payments for tenants in moderate-income construction built with interest subsidies. The costs and apparent inequities in these programs led to their suspension by the Administration in January 1973.

Housing subsidy programs were reinstituted in late 1974. The Housing and Community Development Act of 1974 established the Section 8 leased housing assistance payments program as the primary vehicle for providing decent housing for lower income families. Under this program, HUD makes payments to private landlords on behalf of lower income tenants to cover the difference between tenant rent payments and a HUD-determined fair market rent. Through these payments, the Section 8 program encouraged the utilization of existing units, the rehabilitation of deteriorated units, and the construction of new housing for lower income families, but the 1983 Authorization Act restricts use of Section 8 to existing housing. As of June 1985, 1,900,000 units were available for occupancy, of which about three-fifths were existing units. Cumulatively, over 2.3 million units of all types had been reserved from the start of the program to the end of FY85.

The major issues concerning this program have been the level of appropriations and the costs, particularly of new construction. Consequently, since 1980, there has been a shift away from new construction to use of existing housing. The level of funding for contract authority for Section 8 and public housing had dropped, so that in FY85 it is two-fifths of the FY79 level, and authority to use Section 8 for new construction and substantial rehabilitation has been virtually ended. To lower HUD expenditures, tenant rent payments have been increased to 30%, rather than 25%, of adjusted income.

The FY86 appropriation sets the level of funding for assisted housing at about the same level of contract authority as for FY85, but about 7% below the FY85 level of budget authority. This is accomplished by greater reliance on 5-year vouchers rather than 15-year Section 8 certificates. The FY86 appropriation is notably subject to sequestration under the provisions of the Gramm-Rudman-Hollings deficit reduction act. Programmatic changes originally included in H.R. 1 have been incorporated by the House in its Omnibus Budget Reconciliation Act of 1986 (H.R. 3500), but are not included in the Senate version (H.R. 3128 as amended). The measure is now in a conference committee.

LEGISLATION

P.L. 99-160, H.R. 3038

Department of Housing and Urban Development-Independent Agencies Appropriation Act, FY86. Appropriates $838.8 million in contract authority and $9,965.6 million in budget authority for assisted housing (public housing, Section 8, and vouchers). Of the budget authority, $1,306.5 million is for development of new public housing of which 20% is for reconstruction of obsolete projects, and $327.6 million for development of Indian housing; $1,500.0 million is for comprehensive modernization (CIAP); $1,616.6 million for Section 8 in conjunction with Section 202 projects; $2,468.2 million for Section 8-Existing certificates; $922.5 million for Section 8 moderate rehabilitation; and $851.2 for housing vouchers in the Section 8(o) program. These voucher funds are released from primary use with the rental rehabilitation program, and from the restriction to a demonstration program. An additional $75 million is appropriated for each of the rental rehabilitation program and rental development program (HODAG). Appropriations for operating subsidies for public housing are set at $1,210.6 million.

For housing for the elderly and handicapped, $631.0 million is made available for loans to nonprofit sponsors of Section 202 housing, with the interest rate continued at 9.25%. Congregate housing is funded at a $2.7 million level and housing counseling at $3.5 million. Continues use of recaptured and repaid funds for Section 235, but no new funding is added. A similar provision is made for Section 312 rehabilitation. Introduced July 18, 1985; reported to House from Committee on Appropriations same day (H.Rept. 99-212). Passed House July 25, 1985. Passed Senate, with amendments, Oct. 18, 1985. Conference Committee report submitted to House and Senate Nov. 8, and adopted by both houses, Nov. 14, 1985. Signed into law Nov. 25, 1985.

Grace Milgram
IB79058

IMMIGRATION

MLC-039

IMMIGRATION ISSUES AND LEGISLATION IN THE 99TH CONGRESS

...legislation passes Senate, pending in House...

Immigration law and policy are widely believed to be in need of reform, and major legislation to accomplish this goal is pending in the 99th Congress. S. 1200, the "Immigration Reform and Control Act of 1985," was introduced on May 23, 1985 by Senator Alan Simpson, the Chairman of the Senate Judiciary Subcommittee on Immigration and Refugee Policy, reported by the full Judiciary Committee on Aug. 28 (S.Rept. 99-132), and passed by the Senate on Sept. 19, 1985. H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985," was introduced on Nov. 21, 1985 by Representative Peter Rodino, the Chairman of the Judiciary Committee, and Representative Romano Mazzoli, the Chairman of the Judiciary Subcommittee on Immigration, Refugees, and International Law. This is a clean bill introduced following markup by the House Judiciary immigration subcommittee of H.R. 3080, also introduced by Representatives Rodino and Mazzoli. Specific issues addressed include the control of illegal immigration by employer sanctions, the admission of temporary alien agricultural workers, and legalization. The Senate and House bills, which differ in some significant respects, have evolved directly from the Simpson-Mazzoli legislation passed by both houses in the 98th Congress but not enacted, and passed by the Senate in the 97th Congress.

LEGISLATION

H.R. 3810 (Rodino and Mazzoli)

Immigration Control and Legalization Amendments Act of 1985. Title I -- Control of Illegal Immigration. Part A, Employment, amends the Immigration and Nationality Act to prohibit the knowing employment, or recruitment or referral for a fee, of aliens known to be unauthorized to accept employment in the U.S. Establishes a graduated series of penalties ranging from $1,000 to $2,000 for a first offense, $2,000 to $5,000 for subsequent offenses, and up to $1,000 and/or six months imprisonment for a pattern or practice of violation. Authorizes injunctive and other relief. Establishes mandatory verification procedures with a $1,000 penalty for violation. Mandates implementation of and compliance with a social security account number verification system. Prohibits discrimination based on citizenship or alien status and creates an Office of Special Counsel in the Justice Department to investigate and prosecute discrimination complaints.

Provides for increased penalties for fraud and misuse of certain immigration-related documents. Part B, Improvement of Enforcement and Services, authorizes supplemental appropriations for INS for FY86 and FY87. Increases penalties for unlawful transportation of aliens to the U.S. Requires an immigration emergency plan and authorizes a contingency fund. Restricts warrantless entry in the case of outdoor agriculture operations. Part C, Verification of Status Under Certain Programs. Requires verification of eligibility of aliens applying for benefits under certain welfare programs.

Title II -- Legalization. Establishes a temporary 18-month program requiring the Attorney General to adjust the status of otherwise eligible aliens who have been here continuously since prior to Jan. 1, 1982, to a temporary status adjustable to a permanent status after one year's residence. Excludes legalized aliens for five years from Federal assistance except for emergency medical care, aid to the aged, blind, and disabled, and other specified programs. Provides for permanent legalization and continued Federal assistance to Cuban/Haitian Entrants who entered prior to Jan. 1, 1982, and provides that such adjustment is retroactive to Jan. 1, 1982. Authorizes 100% Federal reimbursement, subject to available appropriations, of State and local expenditures on public assistance programs for legalized aliens, and related educational assistance. Extends registry date to Jan. 1, 1976.

Title III -- Reform of Legal Immigration. Part A, Temporary and Transitional Agricultural Workers, amends existing H-2 temporary alien worker provisions to expedite the admission of temporary alien agricultural workers. Makes nonimmigrant agricultural workers eligible for Legal Services assistance. Part B, Other Changes in the Immigration Law, increases legal immigration ceiling for colonies to 3,000 from 600. Prohibits most foreign students from adjusting status or returning to the U.S. until they have completed a two-year foreign residence requirement. Provides special immigrant status for certain employees of international organizations (G-4 nonimmigrants) and their immediate family members. Provides authority for a pilot visa waiver program for nonimmigrant alien visitors for business or pleasure from up to eight countries. Allows natural fathers same immigration benefits as natural mothers. Provides that brief, casual, innocent absences do not break continuous physical presence for the purposes of suspension of deportation.

Title IV -- Reports to Congress. Requires triennial comprehensive reports on immigration; reports on unauthorized alien employment and discrimination in employment; reports on H-2A program; reports on legalization program; and report on visa waiver pilot program.

Title V -- State and Local Assistance for Incarceration Costs of Illegal Aliens and Certain Cuban Nationals. Provides for Federal reimbursement of States and localities for costs of incarcerating illegal aliens and certain Cuban nationals. Introduced Nov. 21, 1985; referred to the Committee on the Judiciary.

S. 1200 (Simpson) (as passed)

Immigration Reform and Control Act of 1985. Title I--Control of Illegal Immigration. Part A, Funding for Improved Enforcement, authorizes appropriations for the U.S. Immigration and Naturalization Service (INS) and for related Labor Department enforcement activities. Part B, Increased Penalties for Immigration-related Violations, increases penalties for unlawful transportation of aliens to the U.S. and for fraud and misuse of certain immigration-related documents, and imposes restrictions on adjustment from nonimmigrant to immigrant status. Part C, Control of Unauthorized Employment of Aliens, amends the Immigration and Nationality Act to prohibit the knowing employment, or recruitment or referral for a fee or other consideration of aliens known to be unauthorized to accept employment in the U.S. Establishes a graduated series of penalties for violation consisting of civil fines ranging from $100 to $2,000 for each alien for a first offense, $2,000 to $5,000 for a subsequent offense, and $3,000 to $10,000 for a pattern or practice of violation, and criminal penalties of not more then $3,000 and/or 6 months imprisonment for a subsequent pattern or practice of violation. Requires the issuance of cease and desist orders. Establishes voluntary verification procedures for employers of four or more, and requires Presidential monitoring and, given certain conditions, improvement of the verification system. Adds provisions to expedite the admission of temporary alien agricultural workers. Establishes a 3-year agricultural labor transition program. Establishes a commission on temporary agricultural labor programs to report within 2 years. Establishes a seasonal agricultural worker program for perishable commodities capped at 350,000 workers at any one time. Part D, Immigration Emergency Revolving Fund, authorizes $35 million for such a fund.

Title II--Legalization of Status of Certain Long-Time Residents. Provides for the establishment of a Presidentially appointed Legalization Commission which must report to the Congress annually on whether appropriate Federal enforcement programs are in effect to substantially curtail illegal immigration, and on whether these programs are likely to continue during a legalization program. Provides that the legalization program will go into effect upon a finding that these conditions are being met or in 3 years, whichever is earlier. Under the one-year legalization program, provides that otherwise eligible aliens who have been here continously since prior to Jan. 1, 1980, and Cuban/Haitian entrants given that status prior to Oct. 15, 1981 may, at the discretion of the Attorney General, be granted a temporary legal status adjustable to permanent resident status after approximately 3 years provided certain conditions are met. Bars legalized aliens except for Cuban/Haitian entrants from Federal assistance for 6 years. Authorizes appropriations of $300 million for the first 2 years and $600 million for the next 4 years for a 6-year capped entitlement impact-assistance program of grants to the States for State and local public assistance costs related to legalization and for the cost of the imprisonment of certain illegal aliens.

Title III--Other Changes in the Immigration Law. Increases the colonial quota from 600 to 3,000. Provides authority for a pilot visa waiver program for nonimmigrant alien visitors for business and pleasure from up to eight countries. Provides special immigrant status for certain employees of international organizations (G-4 nonimmigrants) and their children and widowed spouses. Requires the verification of eligibility of aliens applying for benefit under certain Federal welfare programs. Requires INS officers to obtain search warrants before entering farms.

Title IV--Reports. Requires triennial comprehensive reports on immigration; reports on unauthorized alien employment and discrimination in employment; a report on the visa waiver pilot program; Presidential reports on any legalization program; and a report on INS. Provides that employer sanctions will terminate after 3 years if GAO finds a resulting widespread pattern of discrimination and Congress approves the finding. Expresses the sense of the Congress that the President of the U.S. should consult with the President of Mexico within 90 days after the enactment of this legislation regarding its effect and report to the Congress on the results.

Title V--Commission for the Study of Cooperative United States-Mexican Endeavors to Improve Economic Conditions. Establishes ten-member study commission to report within 6 months.

Title VI--Miscellaneous Provisions. Expresses the sense of the Congress that English is the official language of the U.S. Expresses the sense of the Senate that the tariff on imported ethanol should be implemented immediately. Requires the Federal Government to reimburse State governments for the cost of incarcerating illegal aliens and Marielitos for felonies. Provides that the seasonal agricultural worker program will terminate in three years unless extended by the Congress. Introduced May 23, 1985; referred to the Committee on Judiciary. Reported by Committee on Judiciary Aug. 28, 1985 (S.Rept. 99-132). Passed Senate Sept. 19, 1985 by a vote of 69-30.

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IB85154

INCOME MAINTENANCE

MLC-040

AID TO FAMILIES WITH DEPENDENT CHILDREN: STRUCTURAL CHANGE

...conference agreement rejected...

The Aid to Families with Dependent Children (AFDC) program provides Federal funds to the States for cash relief to children with only one able-bodied parent at home and those whose primary breadwinner is unemployed. The States determine the benefit levels, but the Federal Government pays at least 50% of the cost in all States and about 54% nationwide.

Since 1969, Presidents, commissions, and others have urged Congress to reform AFDC, but in different ways. One set of proposals, advanced by Presidents Nixon and Carter, aimed to expand eligibility to all poor children and make aid more nearly uniform; the other, advanced by President Reagan, has aimed to narrow eligibility and, within each State, to concentrate funds on the poorest. The 97th Congress chose the second path, voting to reduce or end benefits for families with earnings, for those with a stepparent, and for students beyond high school.

President Reagan asked the 98th Congress to restrict eligibility further and to require States to adopt mandatory job search for employable applicants and work programs for recipients.

However, Congress voted (P.L. 98-369) to liberalize AFDC rules for those with earnings or with child support rights and to require States to continue Medicaid for 9 months to families who lose AFDC eligibility because the law treats their earnings less liberally after 4 months of work.

In his FY86 budget, President Reagan renewed recommendations to end a parent's benefit when her youngest child is 16 and to withhold AFDC from a minor mother unless she lives at home with her parent. He also urged that all States be required, over 3 years, to establish work programs for all employable recipients. Further, he called for an end to open-ended Federal matching funds for most State administrative costs. However, on July 24, 1985 the Ways and Means Committee voted to liberalize AFDC by including in its budget reconciliation bill (later introduced as H.R. 3128) a requirement that all States offer AFDC to needy families of unemployed parents. [See issue brief on AFDC FY86 budget, IB84045.]

The House has voted three times for a cash income floor for needy families with children: in 1970 and 1971, when it passed the Family Assistance Plan (FAP), first proposed by President Nixon; and in 1979, when it approved a version of President Carter's plan.

The 1969-72 FAP debate and the 1977-78 debate over President Carter's AFDC plan publicized many issues in AFDC, including the following: wide variations in benefit levels; discrimination against mothers who already are employed and against fully employed fathers; work disincentives from simultaneous participation in AFDC and other benefit programs; lack of coordination among the numerous benefit programs; complexity; cost; and tension between Federal and State governments over welfare policy and rules.

For three fiscal years (1977-1979), individual AFDC enrollment declined, but from 1979 to 1981 numbers climbed 8% to a monthly average of 11.2 million, 2% below the record high of 11.4 million set in FY76; and FY81 benefits totaled $12.9 billion.

In October 1981, the month of initial effect of some AFDC budget-cutting provisions of the Omnibus Budget Reconciliation Act of 1981, AFDC enrollment dipped below 11 million for the first time in more than a year. In FY82 enrollment dropped 7% to a monthly average of 10.4 million; but FY83 numbers turned upward and rose 2%, averaging 10.6 million.

Benefit payments totaled $12.957 billion, $12.593 billion, and $13.535 billion, respectively, in FY82, FY83, and FY84.

In August 1985, AFDC enrollment totaled 10.801 million persons in 3.685 million families. The family count was up slightly from the year-earlier number, and up 0.3% from the August 1983 number, but down 4% from the all-time high (excluding foster care children) of 3.834 million families in March 1981. The August caseload consisted of 251,000 families aided because of the unemployment of the primary earner, and 3,434,000 other families, primarily fatherless families. The count of unemployed-parent (AFDC-UP) families was 57,000 below the all-time high set in March 1984.

Benefits averaged $345 per family in August 1985, $333 for one-parent families and $512 for AFDC-UP families. Year-earlier benefits totalled $1.271 billion, an annual rate of $15.3 billion.

The Federal Government funds about 54% of AFDC benefit payments; States and localities, 46%. States decide the share of localities, which is estimated to have dropped below 5% in 1980. The Federal funding rate per State ranges from 50% to 78.42%, depending, within limits, on the State's relative per capita income.

LEGISLATION

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985. Title II sets maximum deficits for each year, FY86-FY91, and establishes procedures to reduce "excess" deficits through mandatory Presidential orders cancelling funds (sequestration). Exempts several programs from any order sequestering funds, including these welfare programs -- AFDC, food stamps, Medicaid, SSI, the Earned Income Tax Credit, veterans' pensions, child nutrition, and Special Supplemental Food Program for Women, Infants and Children (WIC). Places limits on cutbacks in funds for community health centers, migrant health centers, and Indian health facilities and services, all of which serve many low-income persons; plus Medicare. Provides that Federal matching funds can be sequestered only in the cases of child support enforcement and foster care and adoption assistance (and limits "cuts" in the latter two programs to a freeze on payment rates). Title I increases the statutory limit on the public debt and originated automatically in the House (under a rule about deficit procedure) on Aug. 1, 1985, when it was engrossed, deemed passed, and sent to the Senate. During Senate floor consideration, bill was amended to include a revised form of the Balanced Budget and Emergency Deficit Control Act of 1985, originally introduced as S. 1702. Passed the Senate Oct. 10, 1985. Conferees reported in disagreement (H.Rept. 99-151) on Nov. 1. Later that day the House modified the measure by adopting its own version of deficit control, which explicitly exempted several programs for low-income persons from sequestration orders. On Nov. 12 a second conference began. House and Senate passed the conference report (H.Rept. 99-433) on Dec. 11. Signed into law on Dec. 12, 1985.

H.R. 880 (Johnson et al.)

AFDC. Authorizes pilot and demonstration projects for caretaker parents with preschool children enrolled in AFDC, to test whether education or vocational training will enable them to earn their living. Introduced Jan. 31, 1985; referred to Committee on Ways and Means.

H.R. 1081 (Stark et al.)

AFDC. Provides special grants to States for programs designed to promote self-sufficiency of women under age 25 who are pregnant or have children under school age. Requires States to give AFDC to first-time pregnant women in the program. Introduced Feb. 7, 1985; referred to Committee on Ways and Means.

H.R. 1279 (Matsui et al.)

AFDC quality control. Increases the permissible AFDC error rate from 3% to 4% for a State without a program for unemployed parents and to 4.5% for a State with such a program, plus allowances of up to 0.5% each for States with a relatively large proportion of AFDC earners or with relatively dense population. Introduced Feb. 26, 1985; referred to Committee on Ways and Means. Hearing held June 21, 1985. Approved, with permissible AFDC error rate of 3.5%, by Subcommittee on Public Assistance and Unemployment Compensation July 18, 1985. Provisions of amended bill approved by Ways and Means Committee July 24, 1985, for inclusion in budget reconciliation bill, H.R. 3128.

H.R. 2585 (H. Ford and Rangel)/ S. 1194 (Moynihan)

AFDC, SSI, EITC, food stamps, Social Security. The Family Economic Security Act of 1985. Requires States to pay an AFDC benefit that, combined with food stamps, equals at least 55% of a family's poverty threshold (rising, over 5 years, to a combined benefit floor of 70% of poverty); increases Federal matching funding for AFDC benefit increases above the mandatory floor level; requires all States to offer AFDC to needy two-parent families (without regard to employment status); increases the maximum EITC from $550 to $880, phased out at gross income of $16,000 (compared with $11,000 in current law); requires AFDC and SSI to disregard EITC payments as income; and restores a permanent work incentive bonus to AFDC (disregard of 25% of earnings left after a standard deduction of $100 monthly, plus deduction of day care costs up to $160 per child, with a family limit of $320). Increases SSI benefits by $20 monthly ($30 for couples), eliminates the actuarial benefit reduction in social security for widow(er)s aged 80 or more; raises the zero bracket amount in the tax code for heads of households to that of married couples filing jointly. Requires States to give 1 year of Medicaid coverage to families who leave

AFDC without private health insurance. Makes numerous other changes. Introduced May 22, 1985; referred jointly to Committees on Ways and Means and on Energy and Commerce. Companion bill, S. 1194, introduced the same day; referred to Committee on Finance. Subcommittee on public assistance and unemployment compensation approved provision requiring all States to offer AFDC-UP, in amended form, on July 18, 1985. Ways and Means Committee approved this provision on July 24, 1985, for inclusion in budget reconciliation bill (H.R. 3128).

H.R. 2944 (Campbell et al.)
AFDC. Social Welfare Amendments of 1985. Embodies several recommendations of President's FY86 budget, including mandatory work rules, a ban on AFDC for minor parents not living at home, and an end to open-ended funding for State administrative costs. Introduced July 10, 1985; referred to Committee on Ways and Means. (See also S. 1081.)

H.R. 3128 (Rostenkowski)
AFDC. Deficit Reduction Amendments of 1985. Title III requires States to offer AFDC to two-parent families, regardless of employment status, whose income and resources are within State limits (estimated FY86-FY88 cost, $410 million). Provides grants for State programs (1986 and 1987 only) to prevent teenage pregnancies and help teen parents become self-sufficient. Also revises AFDC quality control system (see H.R. 1279). Introduced July 31, 1985; referred to Committee on Ways and Means, which ordered it reported the same day (H.Rept. 99-241, Part 1). House passed the bill on Oct. 31, 1985, and the Senate, after amending it to incorporate provisions of S. 1730, on Nov. 14. Conferees agreed on Dec. 19, 1985 (H.Rept. 99-453) to adopt the House proposal for mandatory AFDC-UP (and the Senate proposal for a 2-year moratorium on fiscal sanctions for excessive error rates), but the House on Dec. 19 and the Senate on Dec. 20 rejected the conference agreement, and Congress then adjourned.

S. 19 (Moynihan)
AFDC. Authorizes $75 million annually in grants for programs that seek to prevent long-term dependency of pregnant teenagers and teenage mothers. Introduced Jan. 3, 1985; referred to Committee on Finance. (Similar bill was introduced in 1984.) See H.R. 3128.

S. 1081 (Roth)
AFDC. (Administration's FY86 budget proposals.) Ends a parent's benefit when her youngest child is 16; generally withholds AFDC from a minor mother unless she lives at home with her parent. Requires States, over 3 years, to establish work programs for all employable recipients. Ends open-ended Federal matching funds for most State administrative costs, but authorizes separate funding for administrative costs of work programs. Introduced May 7, 1985; referred to Committee on Finance.

S. 1237 (Dodd)
AFDC, food stamps, Medicaid, EITC, social services. Children's Survival Act. Restores permanent work incentive bonus to AFDC and increases its size; establishes a national minimum AFDC benefit (75% of the Federal poverty guideline, payable in a combination of AFDC and food stamps); increases Federal matching funding for AFDC benefit increases; requires States to offer AFDC to 2-parent families whose primary earner is unemployed; plus numerous other changes. Introduced June 4, 1985; referred to Committee on Finance.

S. 1362 (Evans)
AFDC. Imposes moratorium on fiscal sanctions for excessive AFDC payment errors, raises the level of permissible errors from 3% to 4%, and requires studies on AFDC quality control by the Department of Health and Human Services and the National Academy of Sciences. Introduced June 26, 1985; referred to Committee on Finance. See S. 1730.

S. 1730 (Domenici)
AFDC and Medicaid. Consolidated Omnibus Budget Reconciliation Act of 1985. Includes 2-year moratorium on fiscal sanctions against States for excessive error rates in AFDC and Medicaid and requires studies by the DHSS Secretary and the National Academy about quality control system (provisions recommended by Senate Finance Committee). Introduced Oct. 2, 1985 as original bill on behalf of the Senate Budget Committee (Report no. 99-146). Passed by Senate on Nov. 14, 1985 after insertion into H.R. 3128. Reached agreement to adopt the moratorium on Dec. 19, 1985, but the House on Dec. 19 and the Senate on Dec. 20 rejected the conference report. (See H.R. 3128.)

Vee Burke
IB74013

MLC-041

“BLACK LUNG” BENEFITS: 1985 LEGISLATION AND FY86 BUDGET PROPOSALS

...50% increase in coal taxes...

The cost of "Part C" black lung benefits is substantially exceeding the coal tax revenues used to finance benefits through the Black Lung Disability Trust Fund. The gap is made up through loans from the Federal Treasury. In 1985, the Administration proposed freezing black lung benefit levels at least through FY86, and increasing coal taxes by 50% in order to decrease and then end the need for Federal Treasury loans to the Trust Fund.

Without specific, positive Congressional action to adjust black lung benefit levels, they will be frozen in FY86 because Federal pay has been frozen and black lung benefits are indexed to Federal salaries.

Although a tentative House-Senate agreement appears to have been reached, congressional action is still pending with regard to a coal tax increase. The House version of H.R. 3128 (the Deficit Reduction Amendments of 1985) would increase coal taxes along the lines of the Administration's proposal. On the other

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hand, the Senate version of H.R. 3128 (initially approved as S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985) rejects coal tax increases, and would simply end the Trust Fund's borrowing authority, forcing separate action to deal with Trust Fund deficits.

In addition, a large backlog of black lung cases on appeal has prompted legislative remedies and an increase in administrative funding.

LEGISLATION

H.R. 2833 (Staggers)
Requires the Labor Department to reduce the backlog of black lung cases through the assignment of additional administrative law judges. Introduced June 20, 1985; referred to Committee on Education and Labor.

H.R. 3046 (Mollohan)
Revises rules governing the GS classification and assignment of administrative law judges in order to enable the assignment of more judges to black lung cases. Introduced July 18, 1985; referred to Committee on Post Office and Civil Service.

H.R. 3128 (Rostenkowski)
Includes provisions increasing the tax rates on coal used to finance the Black Lung Disability Trust Fund. Introduced and reported from the House Committee on Ways and Means on July 31, 1985 (H.Rept. 99-241). Passed House Oct. 31, 1985. Passed Senate with major revisions (see S. 1730) Nov. 14, 1985.

H.R. 3500 (Derrick)
Omnibus Budget Reconciliation Act of 1985. Includes provisions that may have the effect of freezing black lung benefits in FY86, barring special action. Introduced and reported from the House Budget Committee Oct. 3, 1985 (H.Rept. 99-300). Passed House Oct. 24, 1985. Consolidated with H.R. 3128.

S. 1217 (Rockefeller)
Requires the Labor Department to employ additional administrative law judges to hear black lung cases. Introduced May 23, 1985; referred to Committee on Labor and Human Resources.

S. 1730 (Domenici)
Consolidated Omnibus Budget Reconciliation Act of 1985. Includes provision terminating borrowing authority for the Black Lung Disability Trust Fund and provisions that may have the effect of freezing black lung benefits in FY86, barring special action. Introduced and reported from the Senate Budget Committee Oct. 2, 1985 (S.Rept. 99-146). Passed Senate as its versionof H.R. 3128 Nov. 14, 1985.

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MLC-042

CIVIL SERVICE RETIREMENT SYSTEM

...proposes to further curtail CSRS costs...

The Civil Service Retirement System (CSRS) paid approximately $21.9 billion in benefits to about 1.4 million retirees and almost a half million survivors in FY84. Retiree benefits averaged over $1,000 a month; survivor benefits less than $500 monthly. Payroll taxes (equal employee and employer "contributions") pay 40% of the projected cost of benefits, and general revenue, some in the form of interest payments, accounts for the rest.

Continuing concern over Federal expenditures and high budget deficits has led to criticism of rising CSRS costs and in recent years Congress has acted to cut those costs. The Administration's FY86 budget proposes to curtail CSRS costs further by introducing penalties for early retirement, changing the salary base, eliminating credit for unused sick leave, modifying the cost of living adjustment and making certain changes to the survivor benefit component of the program. Combined savings are estimated by the budget to be $731 million in FY86 and $4.1 billion over a 3-year period. The First Concurrent Resolution on the Budget, passed by both Houses, contains no change from current law.

LEGISLATION

H.R. 2869 (Chandler)
A retirement system for Federal workers hired before 1984, it combines social security, a defined benefit pension, and a savings plan with employee and employer contributions. Unreduced benefits would be payable at age 65 with at least 5 years of service, and reduced benefits (2% for each year before 65) for workers who reached age 55 with at least 30 years of service. Benefits would be paid at 1.2% of the average of the highest consecutive 3 years of salary for each year of service. COLA would be payable annually at a rate equal to 30% of the CPI service. COLA would be payable annually at a rate equal to 30% of the CPI changes. Employees could contribute up to 10% of their salaries to a CAP with the first 3% matched dollar for dollar by agency contributions. CRS estimates the cost of H.R. 2869 to be 21.2% of payroll. Introduced June 27, 1985; referred to the Committees on Ways and Means, Education and Labor, and Post Office and Civil Service.

S. 1527 (Stevens, Roth)
A retirement system for Federal workers first entering service after 1983. The system combines social security with a "defined benefit" pension plan and a tax-deferred savings plan with employee and employer contributions. The defined benefit plan bases benefits on the average of the five highest years of salary, and replaces 1% of that base for each year of service. Benefits are payable at age 55 with 30 years

of service but reduced by 2% for each year under age 62. Unreduced benefits are payable to workers who retire at age 62. After retirement, benefits are adjusted annually for changes in the cost-of-living (COLA) at 2 percentage points less than changes measured by the Consumer Price Index (CPI). The savings plan, or "capital accumulation plan" (CAP) permits employees to defer up to 10% of their salaries until retirement with their agencies matching the first 5% dollar for dollar to encourage participation.

S.Con.Res. 32 (Domenici)

First Concurrent Resolution on the Budget for FY86. The Senate Budget Committee proposed to: (1) place a 1-year freeze on cost-of-living adjustment (COLA); (2) limit post-1986 COLA to increases in the CPI minus 2 percentage points; (3) increase employee contributions from 7% to 9% in 1987; and (4) require the Postal Service and the District of Columbia to pay their full share of the retirement costs for their employees. The FY86 savings are estimated to be $361 million. Introduced Mar. 20, 1985; referred to Committee on the Budget. Reported (S.Rept. 99-15) Mar. 20, 1985. On May 10, 1985, the full Senate adopted S.Con.Res. 32 with changes. With respect to CSRS, the budget resolution assumes: (1) a 1-year freeze on COLA; (2) an increase in employee contributions to 9% in 1987 (1986 for postal workers); (3) a conformance of survivor and student benefits to rules applicable to social security; (4) an increase in D.C. Government and Postal Service contributions to CSRS; and (5) $2 to $3 billion in other unspecified savings (to be determined by Governmental Affairs Committee). Changes to early retirement, salary base, sick-leave credit for retirement, and changed methods of computing COLA were not included. Passed House, with provisions of H.Con.Res. 152 inserted, May 23. Passed by both Houses Aug. 1, 1985. No changes were incorporated pertaining to the CSRS.

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MLC-043

FOOD STAMPS: 1985 LEGISLATION AND FY86 BUDGET PROPOSALS

...farm bill enacted...

Extension of the authorization for food stamp appropriations and sundry revisions to the Food Stamp Act were significant issues in the debate over the 1985 "farm bill." At the end of the 1st session of the 99th Congress (1985), a farm bill was enacted as the Food Security Act of 1985 (P.L. 99-198). Title XV of this Act extends the food stamp appropriations authorization through FY90, with dollar limits ranging from $13 to $16 billion a year, and provides for changes that are estimated to add between $500 million and $1.1 billion to the cost of programs under the Food Stamp Act over the next 5 years (depending on the estimating method used).

The important revisions to the Food Stamp Act include the following: small benefit increases for those with earnings and those with high shelter or dependent care expenses; liberalization of the assets eligibility test; a mandatory employment and training program for employable recipients; a bar against sales taxes on food stamp purchases; decreased benefits for some job training participants; automatic food stamp eligibility for most cash welfare beneficiaries; and increased funding for Puerto's Rico's nutrition assistance block grant.

In separate action, Congress appropriated $12.7 billion for food stamps in FY86 and chose to exempt programs under the Food Stamp Act from spending reductions that may be mandated under legislation to reduce the Federal deficit over the next 5 years (the so-called "Gramm-Rudman-Hollings" measure).

LEGISLATION

P.L. 99-114, H.R. 3454

Extends, until Nov. 15, 1985, authority for (1) Puerto Rico to issue food aid benefits in cash; and (2) pilot projects issuing food stamp benefits in cash to the elderly and disabled. Introduced and approved by the House and Senate Sept. 30, 1985. Enacted Oct. 1, 1985.

P.L. 99-157, S. 1851

Extends the provisions of P.L. 99-114 dealing with benefits in Puerto Rico and certain pilot project authorities until Dec. 13, 1985. Introduced and passed Senate on Nov. 13, 1985. Passed House Nov. 14, 1985. Enacted Nov. 15, 1985.

P.L. 99-182, H.R. 3919

Extends, until Dec. 31, 1985, authorities extended in P.L. 99-114 and 99-157. [*NOTE*. Long-term extension of these authorities is included in P.L. 99-198.] Introduced and approved by the House and Senate Dec. 12, 1985. Enacted Dec. 13, 1985.

P.L. 99-198, H.R. 2100

Food Security Act of 1985. Title XV includes revisions to and reauthorization of the food stamp program. Introduced Apr. 18, 1985; referred to House Committee on Agriculture. Reported with amendments Sept. 13, 1985 (H.Rept. 99-271, part 1). Approved by the House, with amendments, Oct. 8, 1985. Approved by the Senate, with amendments, Nov. 23, 1985. Conference agreement filed Dec. 17, 1985 (H.Rept. 99-447). Conference agreement approved by the House and Senate Dec. 18, 1985. Enacted Dec. 23, 1985. [*NOTE*: See also S. 1714.]

H.R. 2745 (Emerson)

Contains the employment and training provisions of H.R. 2422 as amended in subcommittee (i.e., requiring States to implement employment and training programs for employable food stamp recipients). Introduced June 12, 1985; referred to House Committee on Agriculture.

H.R. 3128 (Rostenkowski)
Senate version (see S. 1730) includes food stamp amendments. Introduced and reported from the House Committee on Ways and Means July 31, 1985. Passed House Oct. 31, 1985. Passed Senate as Consolidated Omnibus Budget Reconciliation Act Nov. 14, 1985.

S. 1714 (Helms)
Agriculture, Food, Trade, and Conservation Act of 1985. Title XIV includes amendments to the Food Stamp Act. Introduced and reported by the Committee on Agriculture, Nutrition, and Forestry Sept. 30, 1985 (S.Rept. 99-145). Approved by the Senate, with amendments, Nov. 23, 1985, as its version of H.R. 2100 (See P.L. 99-198).

S. 1730 (Domenici)
Consolidated Omnibus Budget Reconciliation Act of 1985. Includes food stamp provisions from S. 1714. Introduced and reported by the Committee on the Budget Oct. 2, 1985 (S.Rept. 99-146). With amendment ot the food stamp provisions, passed Senate as its version of H.R. 3128 on Nov. 14, 1985.

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MLC-044

SOCIAL SECURITY CONSTRAINTS PROPOSED IN 1985

...proposals suggested to help reduce budget deficits...

In 1985, as Congress attempted to thrash out measures to reduce the large Federal budget deficits projected for FY86 and later years, a number of proposals were considered to limit future social security cost-of-living adjustments (COLAs). Although the idea of constraining social security COLAs remained active throughout the spring of 1985, by mid summer it became evident that social security curtailments would not be part of any deficit-reduction package enacted that year. By year end, legislation had been enacted creating procedural hurdles intended to limit future attempts to bring up social security cutbacks in the budget-making process. In January 1986 social security benefits were raised by 3.1%, reflecting a full adjustment for inflation.

COLA Constraints Were Proposed

Measures to reduce social security COLAs were first given serious consideration when the Senate Budget Committee proposed that the January 1986 social security COLA be skipped. COLA constraints affecting other Federal benefit programs, among them civil service and military retirement, had been proposed by the President in his FY86 Budget submitted in January 1985; however, social security had been exempted. The Budget Committee added social security to the list of programs whose COLAs were to be skipped in 1986 in making its deficit-reduction recommendations to the Senate. The measure was included in S.Con.Res. 32, the Committee's proposed first concurrent budget resolution for FY86 (which involves the goal-setting stage of the congressional budget process). The social security portion of the COLA "freezes," as they were called, was estimated to yield $22 billion in savings over the FY86-88 period, and even larger savings in subsequent years.

An alternative COLA cutback proposal emerged shortly thereafter, as part of a substitute deficit-reduction package developed jointly by the Administration and the Senate Republican leadership. Instead of freezing COLAs in the affected Federal retirement programs for one year, it would have limited the COLAs for the next 3 years to 2% per year plus any amount by which inflation exceeded the Administration's assumptions (its assumptions at that time suggested that inflation would hover in the high 3% or low 4% range during the next few years). It further included a guarantee provision under which the affected COLAs could not be less than 2%. It, too, would have resulted in about $22 billion in social security savings over the following 3 years (as well as higher savings in later years).

Initially, when the Senate took up the Budget Committee's proposed first budget resolution, it rejected both the COLA freeze and the alternative COLA limitation by agreeing on May 1, 1985 (by a vote of 65 to 34) to an amendment by Senator Dole, for Senators Hawkins and D'Amato, to provide for full funding of social security COLAs. However, on May 10, 1985 -- after considering many amendments to the Budget Committee's recommendations -- the Senate adopted (by a vote of 50 to 49) an entirely revised budget package, introduced by Senator Dole, which incorporated the original COLA freeze recommended by the Committee. Subsequently, the Senate considered an amendment by Senator Moynihan to provide a full social security COLA in January 1986, but it was tabled (by a vote of 51 to 47). The final budget resolution then passed by the Senate assumed later enactment of the 1986 COLA freezes, including one affecting social security.

The House-passed version of the first budget resolution for FY86, H.Con.Res. 152, assumed that full COLAs would be paid in all Federal benefit programs in FY86. During floor debate on the resolution on May 22, 1985 the House rejected an amendment (by a vote of 389 to 32) offered by Representative Dannemeyer to limit social security COLAs to 2% per year for the 3-year period FY86-88. On May 23, 1985 the House also rejected (by a vote of 372 to 56) an amendment offered by Representative Leath to freeze 1986 COLAs for social security, Federal retirement, and veterans compensation while adding back 20% of the anticipated savings to programs that aid needy elderly and disabled people. Provisions of the House-passed resolution were inserted in S.Con.Res. 32, in lieu of the Senate-passed measures, and passed on May 23, 1985.

Conferees for the House and Senate met throughout June and July 1985 to work out an agreement on a deficit reduction package. Among the number of ideas that surfaced were proposals to delay the Senate-passed COLA freezes until 1987, means test the COLAs, make both the COLAs and adjustments to income tax brackets effective every other year (instead of annually), and increase the amount of social security benefits that would be subject to income taxes. Ultimately, however, agreement could not be reached on any form of social security constraint, and the conference agreement on the First Concurrent Resolution on the Budget for FY86, passed on Aug. 1, 1985, did not assume any such savings.

Legislation was Enacted to Take Social Security Out of the Budget

In response to the attempts to include social security changes in the deficit reduction package, a number of measures emerged in the fall of 1985 to remove social security from future Federal budgets and make it procedurally difficult for social security cutback measures to be brought up in the congressional budget process. On Sept. 19, 1985, the Senate agreed to an amendment to S. 1200 (the Immigration Reform and Control Act of 1985) by Senators Cranston and Riegle (by a vote of 79 to 20) instructing the Senate Budget Committee to report back legislation intended to assure that social security benefit changes would not be made for deficit reduction purposes beginning in FY86, and to change the congressional budget process to make it "ineffective to seek to achieve" deficit reductions through changes in social security benefits.

Further steps to keep budgetary actions from affecting social security were taken the following month, when the Senate passed H.J.Res. 372, which raised the statutory debt ceiling and adopted the Gramm-Rudman-Hollings budget balancing procedures. Although early draft versions of the budget balancing measure would have required the President to curtail social security COLAs if the deficit targets (specified in the legislation) were expected to be exceeded, the actual amendment introduced on Oct. 3, 1985 by Senator Dole (and Senators Gramm, Rudman, Hollings et al.) exempted social security from any expenditure reductions resulting from the procedures. An amendment offered by Senator Boren on Oct. 10, 1985 would have included social security COLAs among those that would be subject to automatic reduction, but it was rejected (by a vote of 71 to 27). Under the bill, as finally passed by the Senate on Oct. 10, 1985, social security's income and outgo would be counted from FY86 through FY91 in assessing whether and the extent to which the Government was achieving the required deficit reduction goals, but the program would be exempt from any cutbacks the President might have to make. The measure also made it "out of order" for a budget resolution or reconciliation bill brought up in the House or Senate to include changes to social security. It further stipulated that social security would be considered off-budget immediately upon enactment (instead of beginning in FY93, as provided by the Social Security Amendments of 1983).

The House took up and passed its own budget-balancing measure on Nov. 1, 1985 (passed by a vote of 249 to 180) through an amendment offered by Representative Rostenkowski to the Senate-passed bill, which called for budgetary treatment and exemptions for social security similar to those specified under the Senate bill.

An agreement on H.J.Res. 372 was ultimately reached by House/Senate conferees on Dec. 10, 1985, retaining the special budgetary treatment of social security benefits reflected in the House and Senate bills. The final measure, however, did include social security administrative expenses within the sphere of Federal administrative expenses that would be subject to potential cuts, and made further procedural and technical changes in the way social security would be handled in the budget process. President Reagan signed H.J.Res. 372 into law on Dec. 12, 1985, as P.L. 99-177 -- The Balanced Budget and Emergency Deficit Control Act of 1985.

David Koitz

MLC-045

WELFARE REFORM

...funding ceilings proposed...

Since 1969, Presidents, commissions, and others have urged Congress to reform the Nation's multibillion dollar welfare "system," but in different ways. One set of proposals, advanced by Presidents Nixon and Carter, aimed to expand eligibility for cash aid and to make aid less uneven; the other, advanced by President Reagan, has aimed to narrow eligibility for Aid to Families with Dependent Children (AFDC) and for food stamps. The 97th Congress chose the second path, voting in the Omnibus Budget Reconciliation

Act to reduce or end AFDC benefits for families with earnings, for those children with a stepparent, and for students beyond high school; to freeze food stamp benefits for a time; and to reduce housing subsidies.

President Reagan recommended that the 98th Congress extend this reform process with new cuts in AFDC, food stamps, Medicaid, and housing aid. In the Deficit Reduction Act of 1984 (P.L. 98-360), however, Congress voted to liberalize several terms of AFDC, SSI, and Medicaid. The Earned Income Tax Credit was increased by 10% and States were required to give Medicaid to young children and certain first-time pregnant women, provided their income and resources were within State AFDC limits.

In his FY86 budget, President Reagan renewed recommendations to restrict AFDC eligibility further and to require States to adopt mandatory work programs for most employable AFDC and food stamp recipients. He proposed that Congress end open-ended matching funding for State administrative costs of AFDC benefit payments, Medicaid, and food stamps, substituting a fixed grant. He also proposed that Congress put a ceiling on matching funds for Medicaid payments.

In his FY86 budget, President Reagan proposed to end open-ended funding (usually at a 50% matching rate) for State and local costs of administering AFDC (except in the case of mandatory workfare), food stamps, and Medicaid, and to instead provide fixed grants. Each proposed grant would be set at the 1985 level for FY86 and in later years would be adjusted for inflation. States would be permitted to transfer up to 10% fo the grant among programs.

The budget also proposed to put a ceiling of Federal matching funds for Medicaid payments. The ceiling, $22.2 billion, is $1.3 billion below the projected Federal share under current law.

The budget repeated two budget proposals that would restrict AFDC benefit eligibility: to end benefits for an employable parent upon the 16th birthday of her youngest child; and to withhold benefits from a minor mother unless she lives at home with her parent or guardian.

The budget modified 1981-84 AFDC work proposals by recommending that they be implemented over 3 years. The proposals would direct States: (a) to require employable applicants to perform job search and (b) to require employable recipients to engage in work activities "such as" Community Work Experience Programs (AFDC "workforce") or food stamp workforce programs. The Administration estimated Federal matching costs for State administration of the work program at $145 million, gross benefit cuts at $197 million, and resulting net savings at $52 million. However, on Oct. 31, 1985, the House voted to liberalize AFDC by passing the Deficit Reduction Amendments Act (H.R. 3128) which contains a requirement that all States offer AFDC to needy families of unemployed parents. Both Senate and House Agriculture Committees rejected the proposal to replace food stamps with an optional block grant program. [For details, see Issue Brief 85045, Aid to Families with Dependent Children.] Further conferees on the Food Security Act of 1985 (H.R. 2100) agreed to liberalize food stamp benefits for recipients with earnings.

Various studies and critics have identified the following problems in the welfare system, among others: wide variations in benefit levels, exclusion of millions of the needy from help, unintended potential penalties against marriage and the family, work disincentives, lack of coordination, high error rates, administrative complexity, high costs, Federal-State tension over welfare policy and rules, and harsh treatment of some recipients. Basic issues faced by all proposals to change welfare include: Who should be eligible for how much aid of what kind, and what level of government should pay for it?

LEGISLATION

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985. Title II sets maximum deficits for each year, FY86-FY91, and establishes procedures to reduce "excess" deficits through mandatory Presidential orders cancelling funds (sequestration). Exempts several programs from any order sequestering funds, including these welfare programs -- AFDC, food stamps, Medicaid, SSI, the Earned Income Tax Credit, veterans' pensions, child nutrition, and Special Supplemental Food Program for Women, Infants and Children (WIC). Places limits on cutbacks in funds for community health centers, migrant health centers, and Indian health facilities and services, all of which serve many low-income persons; plus Medicare. Provides that Federal matching funds can be sequestered only in the cases of child support enforcement and foster care and adoption assistance (and limits "cuts" in the latter two programs to a freeze on payment rates). Title I increases the statutory limit on the public debt and originated automatically in the House (under a rule about deficit procedure) on Aug. 1, 1985, when it was engrossed, deemed passed, and sent to the Senate. During Senate floor consideration, bill was amended to include a revised form of the Balanced Budget and Emergency Deficit Control Act of 1985, originally introduced as S. 1702. Passed the Senate Oct. 10, 1985. Conferees reported in disagreement (H.Rept. 99-151) on Nov. 1. Later that day the House modified the measure by adopting its own version of deficit control, which explicitly exempted several progams for low-income persons from sequestration orders. On Nov. 12 a second conference began. House and Senate passed the conference report (H.Rept. 99-433) on Dec. 11, 1985. Signed into law on Dec. 12, 1985.

P.L. 99-198, H.R. 2100
Food stamps. Food Security Act of 1985. Title XV of this general farm bill restores automatic food stamp eligibility to recipients of cash welfare. Increases earned income disregard from 18 to 20% of earnings. Introduced Apr. 17, 1985; referred to Committee on Agriculture. Reported Sept. 13, 1985 (H.Rept. 99-271, Part 1). Senate and House passed conference report Dec. 18, 1985. Signed into law Dec. 23, 1985.

H.R. 433 (Roybal)
SSI. Repeals rule that Social Security benefits be reduced for persons who share households. Introduced Jan. 7, 1985; referred to Committee on Ways and Means.

H.R. 1443 (J. Rowland)
AFDC, Medicaid, food stamps, SSI. Income Maintenance Integrity Act. Establishes a 3-year program of Federal aid to assist States in cross-matching their welfare rolls against records of financial institutions to verify eligibility. Introduced Mar. 6, 1985; referred to Committee on Government Operations.

H.R. 2559 (Emerson, by request)
Food stamps. Food Stamp and Commodity Distribution Amendments. Contains Administration proposals for food stamps (except for a proposed $50 fee upon retailers); mandatory workfare, fixed grant for administrative expenses, and optional State block grants in lieu of regular food stamp program. Introduced May 21, 1985; referred to Committee on Agriculture.

H.R. 2585 (H. Ford and Rangel)/ S. 1194 (Moynihan)
AFDC, SSI, EITC, food stamps, social security. Family Economic Security Act of 1985. Requires States to pay an AFDC benefit that, combined with food stamps, equals at least 55% of a family's poverty threshold (rising, over 5 years, to a combined benefit floor of 70% of poverty); increases Federal matching funding for AFDC benefit increases above the mandatory floor level; requires all States to offer AFDC to needy two-parent families (without regard to employment status); increases the maximum EITC from $550 to $880, phased out at gross income of $16,000 (compared with $11,000 in current law); requires AFDC and SSI to disregard EITC payments as income; and restores a permanent work incentive bonus to AFDC (disregard of 25% of earnings left after a standard deduction of $100 monthly, plus deduction of day care costs up to $160 per child, with a family limit of $320). Also increases SSI benefits by $20 monthly ($30 for couples; eliminates the actuarial benefit reduction in social security for widow(er)s aged 80 or more; and raises the zero bracket amount in the tax code for heads of households to that of married couples filing jointly. Requires States to give 1 year of Medicaid coverage to families who leave AFDC without private health insurance. Makes numerous other changes. Introduced May 22, 1985; referred jointly to Committees on Ways and Means and on Energy and Commerce. Companion bill, S. 1194, introduced the same day; referred to Committee on Finance.

H.R. 2944 (Campbell et al)
AFDC. Social Welfare Amendments of 1985. Embodies several recommendations of President's FY86 budget, including mandatory work rules, a ban on AFDC for minor parents not living at home, and an end to open-ended funding for State administrative costs. Introduced July 10, 1985; referred to Committee on Ways and Means. (See also S. 1081.)

H.R. 3128 (Rostenkowski)
AFDC. Deficit Reduction Amendments of 1985. Title III requires States to offer AFDC to two-parent families, regardless of employment status, whose income and resources are within State limits (estimated FY86-FY88 cost, $410 million). Provides grants for State programs (1986 and 1987 only) to prevent teenage pregnancies and help teen parents become self-sufficient. Also revises AFDC quality control system (see H.R. 1279). Introduced July 31, 1985; referred to Committee on Ways and Means, which ordered it reported the same day (H.Rept. 99-241, part 1). Passed by House on Oct. 31, 1985. Senate inserted into H.R. 3128 provisions of S. 1730 and passed the amended bill on Nov. 14, 1985. Conferees agreed on Dec. 19, 1985 (H.Rept 99-453) to adopt the House provision for mandatory AFDC-UP (and the Senate proposal for a 2-year moratorium on fiscal sanctions for excessive error rates), but the House on Dec. 19th and the Senate on Dec. 20 rejected the conference report, and Congress then adjourned.

H.R. 3500 (Derrick)
Veterans' medical care, subsidized housing. Omnibus Budget Reconciliation Act. Imposes an income test ($19,000 for a veteran with no depedent) for free medical care to veterans without a service-connected disability. Reduces rural housing loan "activity" and forgives loans owed by the Department of Housing and Urban Development to the U.S. Treasury. Numerous other provisions. Introduced Oct. 3, 1985 as a clean bill on behalf of the House Budget Committee (Report no. 99-300). Cleared by Rules Committee Oct. 17, 1985.

S. 7 (Byrd et al.)
Medicaid. Requirs States to give Medicaid to a pregnant woman (and for 60 days after end of the pregnancy) regardless of the presence or employment status of the expectant father, whose family income and resources fall within AFDC eligibility limits. Introduced Jan. 3, 1985; referred to Committee on Finance.

S. 969 (Helms, by request)
Food stamps. Food Stamp and Commodity Distribution Amendments of 1985. Amends and reauthorizes the food stamp program. Authorizes States to operate a nutrition assistance program in lieu of food stamps, tightens work requirements for food stamps, changes deduction rules for food stamps, and makes numerous other changes. Introduced Apr. 22, 1985; referred to Committee on Agriculture, Nutrition, and Forestry.

S. 1081 (Roth)
AFDC. (Administration's FY86 budget proposals). Ends a parent's benefit when her youngest child is 16, generally withholds AFDC from a minor mother unless she lives at home with her parent. Requires States, over 3 years, to establish work programs for all employable recipients. Ends open-ended Federal matching funds for most State administrative costs of work programs. Introduced May 7, 1985; referred to Committee on Finance.

S. 1237 (Dodd)

AFDC, food stamps, Medicaid, EITC, social services. Children's Survival Act. Requires States to offer Medicaid to all pregnant women and all children whose income is below Federal poverty guidelines; increases food stamp benefits and funding for social services and child nutrition; provides for a variety of child care programs, including school-based care and care in public housing projects; increases the earned income tax credit and adjusts it for family size; reduces income taxes for heads of household by raising their zero bracket amount; increases the child care tax credit and makes it refundable; authorizes youth employment and and training programs, school dropout prevention and recovery programs, and school-based student enterprise programs, plus numerous other changes. Introduced June 4, 1985; referred to Committee on Finance.

S. 1730 (Domenici)

AFDC, Medicaid, food stamps. Consolidated omnibus budget reconciliation act of 1985. Includes 2-year moratorium on fiscal sanctions against States for excessive error rates in AFDC and Medicaid, options for States to give Medicaid to needy children under five, born before Oct. 1, 1983, and to give more comprehensive services to pregnant women than to other categorical recipients; prohibits food stamp program from deducting as household expenses shelter expenses paid by any method of Low-Income Home Energy Assistance funds; restores categorical food stamp eligibility to recipients of AFDC or SSI, provided gross household income does not exceed 130% of the poverty threshold; makes numerous other changes. Introduced Oct. 2, 1985 as original bill on behalf of the Senate Budget Committee (Report no. 99-146). Passed by Senate on Nov. 14, 1985 after insertion into H.R. 3128. Conferees, as of Dec. 19, 1985, reached agreement to adopt the quality control moratorium, but the House on Dec. 19 and the Senate on Dec. 20, 1985, rejected the conference report.

S.Con.Res. 32 (Domenici)

SSI and public housing. First Concurrent Resolution on the Budget. Assumes an increase in SSI benefits of $10 monthly for individuals, $15 for couples (as compensation for freeze on COLA in social security). Also assumes reduced funding to operate existing public housing projects and elimination of annual payments for public housing capital costs as a result of debt forgiveness. Introduced Mar. 20, 1985; referred to Committee on the Budget. Reported Mar. 20. Passed Senate May 9, 1985. Passed House, with provisions of H.Con.Res. 152 inserted May 23. Conferences held. Conference report agreed to by both Houses Aug. 1, 1985.

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IB77069

INFORMATION AND PRIVACY

MLC-046

NATIONAL SECURITY CONTROLS AND SCIENTIFIC INFORMATION

...are export restrictions appropriate?...

Concern about the acquisition of American technology by the Soviet Union and its Warsaw Pact allies prompted the Federal Government, for reasons of protecting national security, to seek restriction of the communication of some scientific information to foreign nationals both within the United States and abroad. Endeavors and policies by any Presidential administration for controlling the dissemination of scientific information have a potential for conflicting with traditions promoting intellectual freedom and civil liberties. These initiatives by the Government have also raised issues regarding the Government's authority for these actions as well as the effect the initiatives may have on research and teaching by scientists. These policies may also be in conflict with existing programs that promote technology transfer or support the collection and dissemination of scientific information. The result has been a germinating, complex and multifaceted controversy.

Government efforts to impose limits on scientific communication arose again in the late 1970s as relations between the United States and the Communist bloc became increasingly strained, with the era of detente coming to an abrupt halt in December 1979, when the U.S.S.R. invaded Afghanistan. During the final months of the Carter Administration, mounting tensions between the super powers prompted the curtailment of various cooperative activities by the U.S. and Soviet Union, including a number of scientific and technological exchanges. Federal officials then began seeking to limit certain presentations or participants at scientific professional conferences and the teaching of some scientific subject matter to certain foreign students. In general, the explanations for these restrictive actions were that a particular kind of information, sensitive in a national security context, was being improperly imparted and, in order to prevent this conveyance, the Government was exercising its regulatory powers. The principal authorities relied upon in these efforts were export control laws--the Export Administration Act and its regulations, the Arms Export Control Act and its International Traffic in Arms Regulations--and government research contract prerogatives. However, security classification powers, the Atomic Energy Act, and the Invention Secrecy Act also became significant in some cases.

Initially, such attempts to impose secrecy on or to restrict the communication of scientific information were based upon statutes and administrative regulations currently in force. In every case, however, application had a common basis – protection of the "national security."

Undoubtedly there is a general consensus among scientists and officials that the Nation's security should be protected. Disagreement arises over how such protection is to be realized. To many scientists, national security results from achievement in science, not from concealment. They point out that, "science" and "national security" are not antagonistic to one another. In the past, scientists and government leaders have demonstrated a broad appreciation of the national security concept, including more than just military considerations. In terms of the current controversy, national security, in its most meaningful context, is not defined by Soviet military capability alone.

Many American scientists concede that some unwanted transfers of scientific knowledge to the Communist bloc have occurred. Their objections to increased Government controls on scientific communication, moreover, does not necessarily imply that they underestimate the external dangers facing the United States, are unmindful of the need for limited official secrecy or national security safeguards, or are unaware of the potential military applications of their research and discoveries. In taking issue with new national security limits on scientific communication, many scientists are disturbed about the effects of such restrictions on the scientific process. In their opinion, all scientific findings, conclusions, and interpretations should be publicly and generally available, open to criticism as well as improvement, and, if necessary, rejection. Many scientists worry about the pragmatic effect of new national security restrictions on scientific communication. The strength and safety of the nation, they argue, will not necessarily be maintained or improved if scientific and technological progress and innovation are inhibited as a result of limitations on the dissemination of scientific information.

Government leaders supporting increased national security controls on scientific communication have expressed no desire to impede scientific and technological advancement and achievement in the Nation. And officials in the Commerce, Defense, and State departments have indicated differing points of view about restricting the circulation of sensitive scientific information. Some urge more stringent enforcement of existing laws while others believe this strategy alone is inadequate and advocate the creation of new, stronger control authority. Other factors modifying their thinking are differing understandings of the national security concept, foreign policy and international trade considerations, academic freedom and First Amendment implications, and some practical enforcement problems.

In Congress, several significant debates about increasing national security controls on scientific communication have occurred. Hearings in May 1982 by the Senate Permanent Subcommittee on Investigations on technology transfer resulted in an important report (S.Rept. 97-664) in November of the year. There was also a March 1982 hearing on the impact of national security considerations on science and technology by two subcommittees of the House Committee on Science and Technology; a May 1984 follow-up session by these same two panels; and proceedings by a number of committees and subcommittees reviewing, revising, and extending the Export Administration Act. Soon after the 98th Congress convened in 1983, a number of bills were introduced in both Houses to modify and continue the export statute, which was due to expire automatically at the end of September that year. Although the Act was one of the more controversial authorities used by the Government in the effort to control scientific communication, this consideration was not a primary object of attention in attempts to overhaul the law. Nevertheless, when the House Committee on Foreign Affairs began markup of a bill revising and extending the statute in mid-May of 1983, the following amendment to the proposal, adding a new provision to the policy section of the Export Administration Act, was offered by Rep. Lee Hamilton and was accepted by the panel:

> It is the policy of the United States to sustain vigorous scientific enterprise. To do so requires protecting the ability of scientists and other scholars freely to communicate their research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.

In its subsequent report (H.Rept. 98-257 Part 1) on this legislation, the Committee made explicit its view "that traditional scientific communication activities of universities and the academic community, such as basic research, publications, and exchanges in the open classroom and among scholars, should be free from restriction unless the scientific information in question is subject to security classification under the President's Executive Order 12356 or its availability in the United States is limited by government contract controls or proprietary or trade secret restrictions." After brief consideration by some other committees, the proposal was submitted to the Committee of the Whole House, began undergoing debate on September 26, and was adopted with amendments on Oct. 27, 1983.

When the Senate Committee on Banking, Housing, and Urban Affairs marked up its version of the export renewal legislation in mid-May 1983, the Hamilton provision was appended to the bill by Senators Jake Garn, John Heinz, and William Proxmire. However, as reported by the Committee (S.Rept. 98-170), the proposal also modified the national security controls section of the Export Administration Act by making academic institutions subject to the requirements of the commercial agreements provision. Thus, any agreement between an academic entity and any agency of the government of a country to which exports are restricted for national security purposes would be reportable to the Secretary of Commerce if unpublished technical data, including technology identified by the Secretary of Defense as militarily critical, were being imparted. This reporting requirement appeared to give officials a ready opportunity to regulate, through the application of export controls, the content of lectures, conference presentations, teaching, and publications by U.S. academics in certain foreign countries.

The Senate did not begin debate on its bill revising and extending the Export Administration Act until Feb. 23, 1984. The measure was adopted, with various amendments, on March 1. Among the changes made during floor consideration was modification of the Hamilton provision to read as follows:

> It is the policy of the United States to sustain vigorous scientific enterprise. To do so *involves* sustaining the ability of scientists and other scholars freely to communicate their *nonsensitive* research findings by means of publications, teaching, conferences, and other forms of scholarly exchange. (Key word changes in italic.)

A conference between the two Houses to address differences in their proposals for revising and extending the Export Administration Act began on Apr. 12, 1984. However, the conferees were unable to reach a consensus on some crucial points of disagreement, and an acceptable compromise measure did not emerge prior to the adjournment of the 98th Congress.

Since September 1983, when the statute was due to expire automatically, Congress has extended its termination date on three occasions (97 Stat. 744, 1391; 98 Stat. 36), and the President has invoked national emergency powers on two occasions (E.O. 12444, 48 Fed. Reg. 48215 (Oct. 16, 1983), terminated by E.O. 12451, 48 Fed. Reg. 56563 (Dec. 22, 1983); E.O. 12470, 49 Fed. Reg. 13099-13100 (Apr. 3, 1984)) to continue export regulatory controls when the Export Administration Act lapsed.

With the convening of the 99th Congress, a bill (H.R. 28) was introduced to reauthorize the expired Export Administration Act. Stripped of many of the controversial provisions that had mired conference committee agreement on such a reauthorization measure during the closing days of the previous Congress, the new proposal was placed on a fast-track schedule by House managers. Referred to the Committee on Foreign Affairs, it was marked up by the Subcommittee on International Economic Policy and Trade on Feb. 28, 1985. The resulting text was then offered in a clean bill (H.R. 1786) introduced on March 28. The Committee on Foreign Affairs approved this amended reauthorization measure on April 3.

That same day, a proposal (S. 883) reactivating the expired Export Administration Act until June 15, 1985, was introduced and adopted in the Senate. During discussion of the measure, it was announced that the bill would be sent to the House where the language of the amended reauthorization measure (H.R. 1786) would be attached in accordance with the fast-track scheduling arrangements.

On April 16, legislation (H.R. 1786) revising and extending the Export Administration Act was discussed in the House and adopted under a suspension of the rules. Subsequently, this passage was vacated and a similar Senate-passed bill (S. 883) was accepted in lieu after being amended to contain the language of the House measure as adopted earlier (131 Cong. Rec. H1991-H2016). The modified proposal was then returned to the Senate which rejected the amended bill on May 3 and a conference with the House was requested to resolve differences over the legislation. Conferees met and concluded their deliberations on June 25. A report (H.Rept. 99-180) was filed that day (see 131 Cong. Rec. H4905-H4923) and subsequently adopted by both legislative chambers on June 27. President Reagan approved the Export Administration Amendments Act of 1985 on July 12 (P.L. 99-64). That same day, he signed E.O. 12525 (see 50 Fed. Reg. 28757 (July 16, 1985)) terminating the national emergency export control authority activated by E.O. 12470 on March 30, 1984.

LEGISLATION

P.L. 99-64, S. 883

Amends the Export Administration Act of 1979 by changing the automatic expiration date of the statute from Mar. 30, 1984, to June 15, 1985. Introduced Apr. 3, 1985; considered and passed by the Senate on Apr. 3, 1985; sent to the House for consideration. Adopted by the House on April 16 after its original language was replaced by the text of H.R. 1786, as amended, revising and extending the Export Administration Act; returned to the Senate. Rejected by the Senate on May 3 and a conference with the House was requested. Conferees met and concluded their deliberations on June 25. The conference report was approved by both chambers on June 27. President Reagan signed the measure into law on July 12, 1985.

H.R. 28 (Roth)
Revises and reauthorizes the Export Administration Act of 1979 with a declaration of policy to sustain the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange; by requiring that any U.S. firm, enterprise, or other nongovernmental entity which enters into an agreement with any agency of the government of an export controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the U.S. to the other party of unpublished technical data of U.S. origin, shall report to the Secretary of Commerce the agreement with such agency with sufficient detail; by defining "technology" as information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and for other purposes. Introduced Jan. 3, 1985; referred to the Committee on Foreign Affairs; marked-up by Subcommittee on International Economic Policy and Trade on Feb. 28; resulting text included in clean bill (H.R. 1786).

H.R. 1786 (Bonker and Roth)
Revises and reauthorizes the Export Administration Act of 1979 with a declaration of policy to sustain the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange; by requiring that any U.S. firm, enterprise, or other nongovernmental entity -- but not colleges, universities, or other educational institutions -- which enters into an agreement with any agency of the government of an export controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the U.S. to the other party of unpublished technical data of U.S. origin, shall report to the Secretary of Commerce the agreement with such agency with sufficient detail; by defining "technology" as information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; by defining "export" to include an actual shipment, transfer, or transmission of goods or technology out of the U.S. and transfer to any person of goods or technology either within the U.S. or outside of the U.S. with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient; and for other purposes. Introduced Mar. 28, 1985; referred to the Committee on Foreign Affairs; marked up by the Committee on Apr. 3 and ordered reported. Considered and adopted by the House under a suspension of the rules on April 16, but subsequently vacated after its text was substituted for the language of S. 883 which, as modified, was accepted the same day and returned to the Senate.

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LABOR

MLC-047

COMPARABLE WORTH/PAY EQUITY IN THE FEDERAL GOVERNMENT

...do discriminatory practices cause Federal wage gap?...

While the male/female wage gap for the economy as a whole is being much discussed, the Congress is also debating a proposal to study whether discriminatory practices are the cause of the wage gap between male and female Federal workers. It is alleged that female-dominated occupations in the Federal sector are paid less, not because they are 'worth' less, but because they are primarily held by women (sex-based wage discrimination). Opponents of this thesis (including the Administration) argue that pay differences between occupations are essentially determined by supply and demand; that disparities are not caused by sex discrimination; and that general pay rate fixing using comparable worth techniques could cause the government wage structure to become out of balance with the market economy.

About half the States have already or are in the process of conducting pay equity studies. Completed studies have generally found wage disparities between male-dominated and female-dominated jobs. Five States have implemented pay equity adjustments.

As in the 98th Congress, legislation has been introduced in the 99th Congress to require a study of Federal job classification systems and alleged sex-based wage discrimination, and to require the Equal Employment Opportunity Commission to pursue more actively the elimination of discriminatory wage practices.

LEGISLATION

H.R. 27 (Oakar)
Federal Pay Equity Act of 1985. Mandates the U.S. Office of Personnel Management (OPM) to hire a private consultant to examine the Federal pay and classification systems to determine whether or to what extent gender is used as a factor in setting Federal workers' pay rates.

The stated purpose of H.R. 27 is "... to identify any discriminatory wage-setting practices and discriminatory wage differentials within the Federal Government's position- classification system ... and job grading system...." It defines discriminatory wage-setting practices to mean: "practices resulting in a situation in which the rates of pay payable for positions held predominantly by female employees are lower than the rates of pay payable for positions held predominantly by male employees although the work performed in each instance involves comparable duties, responsibilities, and qualification requirements and is performed under comparable working conditions (and, in the case of prevailing rate employees, within the same wage area or within areas subject to the same wage schedules and rates)."

The Office of Personnel Management would be required: (1) to hire a consultant to conduct a study; (2) to prepare a report on the study; (3) to identify appropriate measures for eliminating any discriminatory wage-setting practices; (4) to carry out these measures; and (5) to specifiy which measures are authorized under current law and make recommendations for any legislative or other action. The OPM would have to submit its report to the President, the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs.

The OPM would have to establish a Pay Equity Study Council comprised of at least five (5) members representing labor organizations and at least one (1) member representing an employee organization composed primarily of female employees. The OPM and the Council are to meet to discuss the proposed design and methodology study. Introduced Jan. 3, 1985; referred to Committee on Post Office and Civil Service. Subcommittee hearings held Apr. 4, May 2 and 30, June 18, 1985.

H.R. 375 (Oakar et al.)
Pay Equity Act of 1985. Mandates that the agencies responsible for enforcing the Equal Pay Act, the Civil Rights Act, and certain Executive Orders to report to the President and the Congress on their enforcement activity. Specifically, the EEOC, the Department of Justice, and the Department of Labor would have to report detailed information on (1) the number of pay discrimination cases filed, (2) the number processed, and (3) the nature of the complaints.

The EEOC would have to establish an educational program on eliminating sex-based wage discrimination from private sector pay systems. The educational program would be available for all employers wanting to know about the most effective means of restructuring their pay scales. The EEOC would be required to conduct and promote research to develop methods and techniques for identifying and measuring discrimination in wages and other forms of compensation. Introduced Jan. 3, 1985: referred to Committee on Education and Labor, and Committee on Post Office and Civil Service. Subcommittee hearings held Apr. 4, May 2, May 30, June 18, 1985.

H.R. 3008 (Oakar et al.)
Federal Equitable Pay Practices Act of 1985. To promote equitable pay practices and to eliminate discrimination within the Federal Civil Service. Contains provisions to determine whether the Federal Government's classification systems "are designed and administered in a manner consistent with the general policy" expressed in the discrimination and equal pay laws.

Establishes Commission on Equitable Pay Practices composed of the U.S. Comptroller General, the director of OPM, 5 persons appointed by the President, and 4 persons appointed by the director of OPM. The Commission would select a consultant to conduct a study using both a job-content analysis and an economic analysis of "a representative same of occupations in which either sex is numerically predominant, any race is disproportionantly represented, or either ethnic group is disproportionately represented." Within 18 months, the Commission is to submit the consultant's report and its comments to the President and the Congress. The Commission would be required to make recommendations for eliminating any differentials which cannot be accounted for by the job-content and economic analysis. No recommendation can be made which would reduce any rate of pay or grade.

Defines job-content analysis as meaning "an objective, quantitative method of rating representative entry-level positions" within occupations to determine "composite values" based on such factors as "the skill, effort, responsibilities, qualification requirements, and working conditions."

Defines economic analysis as meaning "an objective method for analyzing differentials in pay" between occupations to determine the extent differentials in pay are attributable to "job-related factors such as seniority, merit, productivity, education, work experience, or veteran status; geographic factors; and other factors, exclusive of sex, race, and ethnicity." Introduced July 16, 1985; referred to Committee on Post Office and Civil Service. Subcommittee hearings held July 23 and markup the same day. Reported, amended, July 29, 1985 (H.Rept. 99-232). Passed House, amended, Oct. 9, 1985. Referred to Senate Committee on Governmental Affairs.

H.Con.Res. 139 (Snowe et al.)
Establishes a commission to study compensation and other personnel policies and practices in the legislative branch. The stated policy of H.Con.Res. 139 is "...that persons employed in the legislative branch shall receive equal pay in cases in which the work performed is comparable, as measured by the composite of skill, effort, responsibility, and working conditions normally required in the performance of the job." H.Con.Res. 139 would establish a Commission on Employment Discrimination in the Legislative Branch. The Commission would be required: (1) to employ a consultant to study and compare the compensation paid within and between job classifications and to analyze personnel policies and practices in the Library of Congress; (2) to evaluate the compensation system and personnel practices in the Library of Congress for compliance with Title VII of the Civil Rights Act of 1964 and make recommendations to Congress for any necessary action to achieve compliance; (3) to develop a comprehensive plan for applying the principles of Title VII of the Civil Rights Act of 1964 to the legislative branch; and (4) to make recommendations to the Congress for improvement of personnel policies and practices in the legislative branch needed to carry out the declared policy. The Commission is to have 13 members -- 4 Representatives, 4 Senators, 2 union members at the Library, 2 managers at the Library, and 1 person appointed jointly by the Speaker of the House and the President pro tempore of the Senate. Introduced May 2, 1985; referred to Committee on House Administration.

S. 5 (Byrd, Cranston, and Melcher)
Pay Equity Act of 1985. Requires the executive branch to enforce applicable equal employment opportunity laws and directives so as to promote pay equity by eliminating wage setting practices which discriminate on the basis of sex, race, ethnicity, age or disability and result in discriminatory wage differentials. The EEOC would be required to publish in the Federal Register within 9 months proposed guidelines for identifying and eliminating discriminatory wage-setting practices.

The bill defines discriminatory wage-setting practices to mean: "the setting of wage rates paid for jobs held predominantly by female workers lower than those paid for jobs held predominantly by male workers although the work performed requires comparable education, training, skills, experience, effort, and responsibility, and is performed under comparable working conditions."

The EEOC would be required to carry out a program of education and to undertake and promote research on the development of equitable job evaluation techniques. The bill defines equitable job-evaluation technique as: "a job-evaluation technique which, to the maximum extent feasible, does not include components for determining the comparative value of a job that reflect the sex, race, ethnicity, age, or disability of the employee."

The EEOC would be required to develop and implement a program for providing technical assistance to employers requesting assistance to eliminate discriminatory wage-setting practices.

The EEOC would have to provide for the conduct of a study of wage-setting practices within or between the Federal Government's position-classification systems and the job-grading system by a private consultant selected upon recommendation of a nine (9) member advisory committee, six (6) of whom are to be representatives from labor organizations. The study is to use an "equitable job-evaluation technique" to determine whether any discriminatory wage-setting practices exist. The study is to be completed within 18 months. The EEOC is then required to submit a report on the study's findings to the President and the Congress. The report is to include any recommendations for statutory changes or administrative action which is considered necessary to effectuate the purpose of the Act.

The Secretary of Labor (the Office of Federal Contract Compliance Programs) would be required to publish in the Federal Register proposed guidelines for all contractors to identify and eliminate discriminatory wage setting practices. The Secretary of Labor is to submit to the President and the Congress a detailed report on the activities of the Office of Federal Contract Compliance Programs.

Each Federal agency would be required to submit along with their EEO plans a review and identification of any discriminatory wage-setting practices and a plan of action to eliminate any such practices.

The EEOC is also required to submit a detailed report on its enforcement activities of the Equal Pay Act, since the transfer of authority for the Equal Pay Act in 1979. Introduced Jan. 3, 1985; referred to Committee on Governmental Affairs.

S. 519 (Evans et al.)
Federal Employee Anti-Sex-Discrimination in Compensation Act of 1985. Requires a study of the compensation and related systems in executive agencies. A Commission on Compensation Equity would be established to provide for a study of representative executive agencies' wage-setting practices and wage differentials. The study is to determine whether female occupations are paid lower than male occupations although the work performed involves equivalent skills, effort, responsibilities, qualifications, and working conditions. Within 18 months the Compensation Equity Commission is to transmit to the appropriate Committees of Congress a report on its findings and recommendations for such administrative or legislative actions as it considers appropriate. The Director of the Office of Personnel Management shall comment on the report and specify the Director's plan and timetable to carry out each of the Commission's recommendations.

The Commission on Compensation Equity is to be composed of nine members who have extensive knowledge and technical expertise in the subject area. The Commission on Compensation Equity shall hire a consultant to conduct the study. Introduced Feb. 27, 1985; referred to Committee on Governmental Affairs.

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MLC-048

THE DAVIS-BACON ACT AND THE COPELAND ANTI-KICKBACK ACT

...labor standards protections in Federal contract construction...

The Davis-Bacon Act of 1931 (as amended) provides for payment of the locally prevailing wage to workers engaged in construction work, under contract, for the Federal Government. Critics of the Act argue that it has outlived its usefulness and that it has an inflationary impact, hampers competition, and is extremely difficult to administer. Supporters argue that it prevents unfair competition, serves to stabilize the construction industry, and helps to insure a higher quality of craftsmanship.

At least since the 1950s, the Davis-Bacon Act has been the subject of reform/repeal efforts by certain industry and employer groups and by some economists. That pattern has continued into the 99th Congress with legislation offered to amend the Act to weaken its impact, to repeal the Act outright, or to exempt certain segments of public construction from coverage under the Act. These efforts, as in prior years, have sparked a defense of the Act by worker/trade union groups.

In its present form, the Davis-Bacon Act requires that construction contracts entered into by the Federal Government specify minimum wages to be paid to the various classes of laborers and mechanics working under those contracts. "Minimum wages" are defined by the Act as those determined by the U.S. Secretary of Labor to be prevailing in the locality of the project for similar crafts and skills on comparable construction. The Act covers direct Federal construction, alteration, or repair of public buildings or public works, including painting and decorating, where the contract is more than $2,000, and applies to such contracts entered into by all agencies of the Federal Government and the District of Columbia. In addition, the Davis-Bacon "principle" of requiring payment of locally prevailing wage rates has been written into more than 50 program statutes at the Federal level. Further, some States have enacted "little Davis-Bacon" Acts within their respective jurisdictions.

In 1934, the related Copeland Anti-Kickback Act was adopted. During the 1930s, there had been allegations that employers formally paid the prevailing wage as required under the Davis-Bacon Act but, then, required "kickbacks" of portions of that wage from their employees. The Copeland Act (as administered) requires weekly reporting of wages actually paid and an affirmation from employers that any deductions from wages due to employees are proper.

Opponents of the Davis-Bacon Act argue, among other concerns, that it is inflationary, that it is difficult to administer and has frequently been inequitably administered, and that it hampers competition. Besides, they point out, Congress has provided a far broader wage floor with the enactment of the Fair Labor Standards Act in 1938. Thus, they suggest, the Davis-Bacon Act is no longer needed. *Defenders* hold that it prevents cutthroat competition from "fly-by-night" firms that undercut local wages and working conditions, that it serves to stabilize the industry -- an advantage alike to workers and to construction industry employers -- and that it tends to assure the consuming agency of better craftsmanship and a higher quality of work. Repeal or weakening of the Act, they suggest, would adversely affect apprenticeship programs in the construction industry -- to the disadvantage of minority and women workers who are entering the apprenticeable crafts in growing numbers.

Extensive hearings were conducted concerning operation of the Davis-Bacon Act both during the 96th and 97th Congresses and numerous bills to amend or to repeal the Act were introduced. None of the proposed legislation, however, was adopted. During the 98th Congress, legislation continued to be offered but much of the focus of reform/repeal effort shifted to the Department of Labor which, through the rule-making process, proposed major changes in the administration of the Act.

In the summer of 1982, the Department of Labor issued proposed new regulations governing the implementation of the Act. Legal challenges followed with appeals and related judicial processes continuing through the last weeks of 1984. In summary, the new regulations provide: *first*, that the present rule for calculating prevailing wage rates be replaced (sustained by the courts); *second*, that the concept of locality for wage determination purposes be more narrowly defined and thus restrict the importation of urban wage rates to rural counties (sustained by the courts); *third*, that Federal or federally assisted projects not be included within the data base for wage calculation purposes (sustained by the courts); *fourth*, that the use of "helpers" on Davis-Bacon projects be liberalized (rejected by the courts in the form proposed); and, *fifth*, that the reporting requirements of the Copeland Act, as now administered, be significantly reduced and/or simplified (rejected by the courts).

Increasingly, legislative interest has come to focus upon the Department's proposed regulatory reforms -- though some Members have added other revisions as well. Some critics of the Act suggest that it may be important to codify by statute the changes already effected through the rule-making process in order to prevent a future Secretary of Labor from using the same rule-making process to restore past practice. Others suggest that the regulatory reforms are insufficient and still hope to effect total change through repeal of the Act.

H.R. 472, introduced early in the 99th Congress by Representative Stenholm, with numerous co-sponsors, basically would codify the rule changes that the Department of Labor had proposed (including those rejected by the courts). In addition, the Stenholm bill would increase the dollar volume threshold for activating Davis-Bacon coverage from the present $2,000 to a proposed $1,000,000. S. 1005, introduced by Senator Nickles, is of narrower focus than the Stenholm bill but similarly raises the dollar volume threshold to $1,000,000. H.R. 73 and H.R. 675, offered respectively by Representatives Crane, and Holt, would totally repeal the Davis-Bacon Act and strike the Davis-Bacon provisions of the various Federal program statutes. H.R. 474, proposed by Representative Walker would allow the head of any Federal department, agency, or establishment to "waive the requirements of any Federal law, or of any rule or regulation promulgated under any Federal law, which such department, agency, or establishment administers or enforces, if an eligible unit of general local government demonstrates that such waiver will result in a substantial increase in the level of employment which is available within the jurisdiction of such government." While the Walker bill does not mention the Davis-Bacon Act specifically, the language would seem sufficiently broad to include the Davis-Bacon and Copeland Acts -- together with an uncertain number of other statutes.

Active floor consideration of the Davis-Bacon Act has occurred twice during the 99th Congress.

(a) *The National Defense Authorization Act for Fiscal Year 1986.*

As part of S. 1160, the National Defense Authorization Act for Fiscal Year 1986, significant modification of the application of the Davis-Bacon Act was proposed. On June 5, 1985, the Senate, by a vote of 49 to 48, approved "the Gramm amendment" -- a labor standards package that had been added to the bill at the suggestion of Senator Gramm during Armed Services Committee consideration. The Gramm amendment would: (a) increase the Davis-Bacon threshold, in the case of Department of Defense contracts, to $1,000,000; (b) define "prevailing wage" as that "paid to 50% of the corresponding classes of laborers, mechanics, and helpers employed on private industry projects of a character similar to the contract work" or a weighted average of such wages; and (c) recognize "helpers" as a regular category of laborer for Davis-Bacon purposes. *The Gramm amendment also amends the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act* to require that overtime wage rates (time-and-one-half of the worker's regular rate) be paid, in the case of contract work performed for the Department of Defense, only for hours worked in excess of 40 per week rather than the current standard of eight hours per day -- thus allowing for the introduction of compressed scheduling by employers without any corresponding requirement that overtime rates be paid. No provision corresponding the the Gramm amendment was included in the House version of this legislation and, therefore, final adjustment was left to a House-Senate conference.

In mid-July, the conferees commenced consideration of the defense authorization legislation, concluding their deliberations on July 25th. With respect to the Davis-Bacon provisions, the House prevailed -- the Senate language modifying the prevailing wage statute being dropped from the bill. Thus, Davis-Bacon coverage for defense construction was preserved. On July 30, 1985, the Senate agreed to the conference report by a vote of 94 yeas to 5 nays.

The House took no action prior to the August recess and delayed consideration of the legislation well into the fall. When the House took up the conference report on Oct. 29, 1985, there was no specific vote on the Davis-Bacon issue (already deleted from the legislation) or on that of Walsh-Healey, while approval of the action of the conferees came on a voice vote. The bill was signed into law on Nov. 8, 1985 (P.L. 99-145). The Davis-Bacon Act remained unchanged. (*Congressional Record*, Oct. 29, 1985 and Nov. 12, 1985.)

However, the Gramm proposal had also called for amendment of the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act as they might relate to Department of Defense contracts. The conferees, in a technical parlimentary maneuver, deleted the language of the Gramm amendment in this respect and then, with some modification, added the language of S. 1105. The latter bill, introduced by Senator Armstrong and already approved by the Senate Committee on Labor and Human Resources, went further than the Gramm proposal. The Armstrong language, now part of the conference report on S. 1160, would eliminate the 8-hour daily pre-overtime pay standard from *all* Federal contracts -- not just defense contacts and not just those ordinarily covered by the Walsh-Healey Act. Thus, Thus, the action of the conferees will have a potential impact upon Federal contract workers in manufacturing, the service trades and construction alike.

(b) *The Military Construction Appropriations, 1986*

On Nov. 7, 1985, the Senate took up consideration of H.R. 3327, appropriations legislation for military construction for FY86. As reported, the bill contained a provision dealing with the Davis-Bacon Act which, like the defense authorization legislation (S. 1160), chose to amend the Act rather than to attempt its repeal outright. The amendment, here, would have applied only with respect to defense-related construction.

As with the defense authorization legislation, Senator Kennedy objected to the committee amendment, arguing in this instance along procedural lines. The Senator added, however:

". . . we took this same measure to conference on the DOD authorization and it was flatly rejected by our colleagues from the House. We were able to make some reforms in the Walsh-Healey Act . . . . *In return for those changes, we agreed not to amend Davis-Bacon.* This was a long and tough negotiation that produced a compromise. I believe that [this] amendment is a retreat from that agreement and will be just as forcefully resisted by the House." (Emphasis added.)

Senator Kennedy sought a ruling from the chair on the issue of germaneness. The question was submitted to a vote and, with 45 yeas to 49 nays, the committee language was ruled not to be germane. A motion to reconsider was laid on the table, and the Davis-Bacon Act survived intact. (*Congressional Record*, Nov. 7, 1985.)

LEGISLATION

P.L. 99-145, S. 1160
Authorizes appropriations for the military functions of the Department of Defense and prescribes personnel levels for the Department for FY86, authorizes certain construction at military installations for FY86, and for other purposes. Introduced May 16, 1985; referred to Committee on Armed Services. Passed Senate, amended, June 5, 1985. House-Senate conferees, on July 25, issued their report, the Senate voting to accept the conference report on July 30, 1985. Conference report on S. 1160 accepted by House Oct. 29, 1985. Signed into law Nov. 8, 1985.

H.R. 73 (Crane)
Repeals the Davis-Bacon Act, and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Education and Labor.

H.R. 474 (Walker)
Contains provisions "[t]o permit localities with severe unemployment to increase employment by obtaining waivers of Federal laws [presumably including the Davis-Bacon Act] and regulations which limit employment opportunities." Introduced Jan. 3, 1985; referred to Committee on Government Operations.

H.R. 472 (Stenholm)
Contains provisions"[t]o amend the Davis-Bacon Act and related statutes in order to provide new job opportunities, effect significant cost-savings on Federal construction contracts, promote small business participation in Federal contracting; to reduce unnecessary paperwork and reporting requirements; to clarify the definition of prevailing wages, and for other purposes." Introduced Jan. 3, 1985; referred to Committee on Education and Labor.

S. 1005 (Nickles)
A bill to amend the Davis-Bacon Act "to modify the provisions of such Act prescribing the minimum wages to be paid laborers, mechanics, and helpers employed on public construction projects, and for other purposes." Introduced Apr. 25, 1985; referred to Committee on Labor and Human Resources.

William G. Whittaker

MLC-049

THE FAIR LABOR STANDARDS ACT

...wages, hours, and conditions of work...

The Fair Labor Standards Act of 1938 (FLSA), as amended, is the basic Federal statute dealing with minimum wages, hours of work, overtime pay, child labor, "equal pay for equal work," and related subjects. The intent of the Act is to eliminate "labor conditions detrimental to the maintenance of minimum standards of living necessary for the health, efficiency and general well-being of workers."

The FLSA was last amended in 1977. However, numerous bills are introduced in each Congress -- including the 99th Congress -- which would amend the Act. Further, the FLSA has been, in recent years, a focal point of administrative reform and of legislation.

Among FLSA-related issues that may receive consideration during the second session of the 99th Congress are the following:

(a) *Should the Federal Minimum Wage Be Increased*? The Federal minimum wage for covered workers, currently $3.35 per hour, is fixed by statute. It reached the $3.35 per hour level in January 1981 and will remain at its present level until the Congress acts to change it.

Should the minimum wage be increased? Should future increases in the Federal minimum rate be made automatic through an indexation arrangement? Since minimum wage workers are less likely than other employed persons to have a significant fringe benefit package, should a portion of the value of an average fringe benefit package be considered when calculating minimum wage scales?

In the 98th Congress, legislation was introduced by Representative Biaggi that would have increased the minimum wage to $4.15 per hour. No action was taken on the Biaggi proposal and no comparable legislation has been introduced in the 99th Congress.

(b) *The Sub-Minimum Wage.* At least since the late 1960s, there have been efforts to create a general subminimum wage for youth and student workers. Should such a reduced wage option, described by proponents as a "youth opportunity wage," be adopted? Should a similar "opportunity" be extended to other groups who suffer labor market disadvantage -- e.g., to women, to senior citizens, to minorities? Youth subminimum wage bills introduced in the 99th Congress include H.R. 1811 (Lott), S. 797 (Hatch), and H.R. 567 (Campbell).

(c) *Wage Treatment of the Blind and Handicapped.* Currently, under Section 14(c) of the FLSA, blind and handicapped workers employed in sheltered workshops) may, under certification by the Secretary of

Labor, be paid a reduced wage generally commensurate with their abilities and productivity. Should this wage arrangement be revised? Are sight-impaired persons appropriately included within the category of "handicapped" for special wage treatment under the FLSA? Have the regulations governing administration of the Section 14(c) program been too inflexible? Should they be tightened up?

During recent years, hearings on the various programs under Section 14(c) have been conducted by the House Subcommittee on Labor Standards (1978 and 1980) and by the Senate Subcommittee on Labor (1982). In the 98th Congress, several bills were introduced that would have amended Section 14(c) to remove the sub-minimum wage option as it applies to the blind or sight-impaired. No new legislation has been adopted, however, as a result of this activity. Representative Lloyd has reintroduced the concept in the 99th Congress with H.R. 808.

Section 14(c), in current law, attempts to set different standards for handicapped persons with varying levels of impairment. Under Department of Labor certification, persons with a moderate level of disability may be paid as little as 50% of the otherwise applicable minimum wage -- with the more severely handicapped, when employed under DOL certification, paid even less. *In the 99th Congress*, legislation (H.R. 2676) has been introduced by Representative Petri that would eliminate all Section 14(c) minimum wage requirements and provide, instead, that "each handicapped worker would be paid according to his or her individual productivity." (See *Congressional Record*, June 10, 1985, p. E2648.)

On Oct. 3, 1985, hearings on the Petri bill were conducted by the House Subcommittee on Labor Standards. Chairman Austin Murphy "agreed that more latitude in the administration of workshop shelters may be necessary" but noted that handicapped workers could end up "getting paid 'next to nothing' for their work and essentially be reduced to being 'slaves.'" A Department of Labor spokesperson noted that the Administration supports the goal of this legislation" and will work with the subcommittee and affected groups during the legislative process." At large, industry/employer witnesses tended to support the initiative; the spokesperson for the workers strongly opposed it. (BNA/DLR, Oct. 4, 1985, p. A/10-A/11 and D/1-D/6.)

(d) *The Shorter Workweek*. Under the FLSA, for covered workers, hours worked in excess of 40 in any calendar week must be compensated for by overtime pay at the rate of one and one-half times (time-and-a-half) the worker's normal hourly rate. The intent of Congress, when enacting the overtime pay provisions of the FLSA, was to reduce the standard workweek to not more than 40 hours by imposing a penalty upon employers. Since 1938, however, an increasing proportion of the compensation package has been shifted to fringe benefits with the result that "time-and-a-half" may no longer constitute a serious disincentive to overtime work.

On July 9, 1985, Representative Conyers introduced H.R. 2933, a bill designed: (a) to increase the overtime compensation requirements of the Fair Labor Standards Act from "time-and-a-half" to "double time;" (b) to reduce the standard pre-overtime workweek under the FLSA from 40 hours to 32 hours (to be phased in over time); and (c) to prohibit the assignment of overtime hours of work without the prior consent of the affected workers. Similar proposals have been introduced by Mr. Conyers in each Congress since the 95th. Hearings on the issue were conducted by the House Subcommittee on Labor Standards (October 1979). The proposal was reviewed by the Federal Minimum Wage Study Commission (1981). No action has yet been taken on H.R. 2933 of the 99th Congress.

(e) *Industrial Homework*. Under Section 11(d) of the FLSA, the Secretary of Labor is authorized to regulate industrial homework. Since the early 1940s, such home production has been banned in several specific fields. Late in the Carter Administration, the Department commenced a review of its long-standing ban at the urging of home knitters. During the Reagan Administration, a lifting of all restraints upon home production has been proposed. This latter initiative sparked a joint industry/labor challenge to the lifting of the ban and the introduction of legislation to remove the discretionary power of the Secretary to impose such a ban in the future. Bills introduced in this Congress include S. 665 (Hatch) and H.R. 2815 (Armey).

(f) *The Garcia Case*. During the 1960s and 1970s, in steps, State and local public employees were brought, by the Congress, under the provisions of the Fair Labor Standards Act. Such coverage has been the subject of extended litigation, being sustained in *Maryland v. Wirtz* (1968), partially set aside in *National League of Cities v. Usery* (1976), and reaffirmed in *Garcia v. San Antonio Metropolitan Transit Authority* (1985). Various affected employer groups (public employers) have urged that Congress rethink its position on the issue. (See separate entry for further details.)

(g) *Child Labor*. "Oppressive" child labor in the United States was substantially outlawed with the enactment of the FLSA in 1938 and the development of regulations appropriate for its implementation. (This is not to suggest that children no longer work nor that all issues of controversy bearing on child labor, have been eliminated.) What constitutes "oppressive" (except in the case of mining and manufacturing industries) and when work is "hazardous" or when children can be employed without interfering with their schooling and under conditions that "will not interfere with their health and wellbeing," however, has been largely left to the rule-making process.

On July 16, 1982, the Department of Labor proposed new regulations governing child labor and the employment of certain student workers, soliciting comment. The regulations, which the Department viewed as simply modernizing existing restraints, provoked sharp criticism in Congress and from various other interested parties. The House Subcommittee on Labor Standards conducted hearings on the proposals during the summer of 1982. Since January 1983, the Department has had the proposed regulations under review. When revised regulations may appear is not entirely clear.

In an unrelated action, the National Park Service proposed deletion from its regulations of restraints upon the employment of child workers (aged 14 to 16 years) by concessioners in the national parks. (*Federal Register*, May 9, 1985, p. 19548.) Comment was solicited through June 10, 1985, sparking a sharp dissent from the AFL-CIO. Review of the comments received is continuing.

(h) *Other FLSA-Related Concerns.* Although not triggering direct labor legislation, a variety of issues related to the Fair Labor Standards Act have attracted attention. These issues include: the employment of children of 10- and 11-years of age as hand harvest workers in agriculture, "equal pay," the implications of labor standards for global economic relationships, and the development of more effective procedures for the enforcement of FLSA provisions.

LEGISLATION

[NOTE: Legislation concerning overtime pay for State and local government employees is treated in a separate entry under the Garcia Decision.

H.R. 567 (Campbell)

Amends the Fair Labor Standards Act of 1938 "to provide a special minimum wage for the employment for limited periods of time of youth age nineteen and under and to broaden the authority for the employment of full-time students at a special minimum wage." Introduced Jan. 22, 1985; referred to Committee on Education and Labor.

H.R. 808 (Lloyd)

Amends the Fair Labor Standards Act of 1938 "to provide that blind persons may not be employed at less that the applicable minimum wage under that Act." Introduced Jan. 30, 1985; referred to Committee on Education and Labor.

H.R. 1811 (Lott)

Authorizes an employer "to pay a youth employment opportunity wage to a person under twenty years of age from May through September" and for other purposes. Introduced Mar. 28, 1985; referred to Committee on Education and Labor.

H.R. 1932 (Armey)

Minority Opportunity Restoration Act of 1985. Creates a "youth employment opportunity" wage, and for other purposes. Introduced Apr. 3, 1985; referred jointly to Committees on Ways and Means, Banking, Finance and Urban Affairs, the Judiciary, and Education and Labor.

H.R. 2544 (Wyden)

Directs the Attorney General "to establish a clearinghouse for information relating to criminal practices in connection with certain employment of youth, to require active Federal investigation and prosecution of such practices in violation of Federal law, and for other purposes." Introduced May 16, 1985; referred to Committee on Judiciary.

H.R. 2676 (Petri)

Amends the Fair Labor Standards Act of 1938 "to require that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor." Introduced June 5, 1985; referred to Committee on Education and Labor.

H.R. 2815 (Armey)

Amends the Fair Labor Standards Act of 1938 "to facilitate industrial homework, including sewing, knitting, and craftmaking." Introduced June 10, 1985; referred to Committee on Education and Labor.

H.R. 2933 (Conyers)

Raises the overtime pay requirements of the FLSA, to reduce the standard workweek under that Act, and for other purposes. Introduced July 9, 1985; referred to Committee on Education and Labor.

S. 665 (Hatch)

Amends the Fair Labor Standards Act of 1938 "to facilitate industrial homework, including sewing, knitting, and craftmaking, and for other purposes." Introduced Mar. 14, 1985; referred to Committee on Labor and Human Resources.

S. 797 (Hatch)

Authorizes an employer "to pay a youth employment opportunity wage to a person under twenty years of age from May through September" and for other purposes. Introduced Mar. 28, 1985; referred to Committee on Labor and Human Resources.

William G. Whittaker

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MLC-050

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES

...flexible option permanently extended...

Following preliminary consideration in several Congresses, the "Federal Employees' Flexible and Compressed Work Schedules Act" was adopted in 1978 and signed into law (P.L. 95-390) by President Carter. The measure was to have effect through a 3-year period during which Federal executive branch employees (and those of certain other agencies) were to be permitted to experiment with alternative work scheduling (AWS) under the close monitoring of the Office of Personnel Management (OPM). On July 23, 1982 (P.L. 97-221), the experimental program was extended for a second 3-year period during which further monitoring was to take place. In the 99th Congress, legislation permanently to extend the flexible hours program (H.R. 1534) was quickly adopted by the House. After considerable delay in the Senate, the measure was finally adopted (Dec. 11, 1985) and signed into law on December 23 (P.L. 99-196).

Since the 1960s, there has developed a growing interest in alternative patterns of work. The impetus for this change in work structures does not seem to have originated within the traditional labor/management community; and, indeed, both organized labor and management appear to have evidenced initial skepticism about the efficacy of such programs. The spark, rather, seems to have come from diverse elements: the legacy of protest growing out of the student activism of the 1960s; the "blue-collar blues" of the 1960s and 1970s and the resultant call for "work humanization;" high and sustained levels of involuntary joblessness; and other considerations. But perhaps the main push for alternative patterns of work has come from women's groups who have argued that the traditional work day prevents them from participating in the labor market during those periods when they are, or could be, free from domestic responsibilities.

Three separate approaches to work hours quickly emerged: flexible hours, compressed work scheduling (P.L. 95-390), and part-time work options (P.L. 95-437, the "Federal Employees Part-time Career Employment Act of 1978") -- i.e., overall, a variety of work hours arrangements that differ from the standard 8-hour day and 5-day week. From the beginning, advocates of these work scheduling arrangements argued that the putative advantages (happier workers, greater efficiency, increased service to the public, energy savings, higher productivity, etc.) would greatly outweigh any disadvantages, stressed by opponents, that might follow from enactment legislation -- for example, workplace confusion, inefficiency and increased costs. With P.L. 95-390, the Congress set in motion a 3-year program of experimentation designed to test these assumptions.

When the initial period of experimentation drew to a close in 1982, some doubts were expressed concerning the effectiveness of the monitoring of the various work scheduling arrangements by OPM and by the various agencies participating in the program. Both OPM and GAO issued reports on the experimental program. Results with respect to cost, efficiency, productivity, etc. were clouded by methodological difficulties and other considerations. However, there seemed, based upon the congressional hearings and media coverage of alternative hours arrangements (both those in the private and public sectors), to be evidence of a broad base of popular worker support for the concept. Thus, Congress extended the AWS program for a second 3-year period and, once again, mandated that OPM carefully review the operation of the program -- its impact for workers, for the mission of the agencies involved, and for the general public. The second period of experimentation was to terminate on July 23, 1985.

On Mar. 19, 1985, Representative Ackerman, with various co-sponsors, introduced H.R. 1534, a bill to make permanent the temporary program of flexible and compressed scheduling instituted in 1978 and extended in 1982. Hearings on the bill were conducted by the Subcommittee on Human Resources of the House Committee on Post Office and Civil Service on March 28 and April 24. In the interim the subcommittee had opportunity to review the studies and findings of OPM and GAO for the second experimental period. On May 8, the bill received approval from the full Committee. On May 20, the House suspended the rules and the bill was passed, thereafter being referred to the Senate Committee on Governmental Affairs for its consideration.

The Federal Employees' Flexible and Compressed Work Schedules legislation deals only with direct employees of the Federal Government. Where private sector workers are employed in the production of goods, *under contract*, for the Federal Government, they may be paid at a rate of not less than time-and-one-half of their regular rate of pay for hours worked in excess of eight per day -- thus, some employers argue, rendering compressed scheduling uneconomical.

During recent Congresses, there has been an effort to amend the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act (statutes governing the hours of Federal contract employees) to eliminate their overtime pay provisions -- an effort generally opposed by organized labor and supported by the affected employers. Further, there has been some effort to link the legislative fate of the Federal Employees' Flexible and Compressed Work Schedules legislation to amendment of the Walsh-Healey Act and the related statutes. In the 99th Congress, measures to amend the public contract statutes have been introduced in both houses -- notably, H.R. 1893 by Representative Kindness and S. 1105 by Senator Armstrong, each with numerous co-sponsors.

No hearings were conducted in the Senate, the language of the House-passed measure being accepted by the Committee on Governmental Affairs. However, "for reasons unrelated to its merits," explained Senator Stevens, "we have been unable to pass a permanent reauthorization of the program under my unanimous consent request of July 11, 1985." Thus, on July 17, the Senate adopted S. 1455 (Stevens) which, as an interim device, extended P.L. 221 *until Sept. 30, 1985.* The following day, July 18, the measure was passed by the House. In neither body was there a recorded vote. The measure was signed by President Reagan, becoming P.L. 99-69 on July 22, 1985.

By adoption of S. 1455, the Congress had extended the life of the flexible schedules program -- but, only until Sept. 30, 1985. Press reports suggested that there existed in the Senate sentiment in favor of linking the Federal employees flexible hours legislation to proposed amendments to the Walsh-Healey Act and/or to a general youth sub-minimum wage bill. By mid-September, the latter prospect seemed more likely. Other interim extensions followed. Finally, on Dec. 11, 1985, the Senate passed H.R. 1534, making the flexible hours experiment permanent, the measure being signed into law on December 23 (P.L. 99-196).

LEGISLATION

P.L. 99-62, S. 1455

Amends the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 by setting a new termination date of Sept. 30, 1985. Introduced July 17, 1985, and immediately adopted; passed the House July 18. Signed into law July 22, 1985.

P.L. 99-196, H.R. 1534

Amends the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 to make permanent the authority of Federal agencies to use flexible and compressed work schedules. H.R. 1534 was introduced Mar. 19, 1985; referred to Committee on Post Office and Civil Service. Committee markup held May 8. Reported May 13 (H.Rept. 99-82). Passed House May 20. Referred to Senate Committee on Governmental Affairs. Passed Senate, Dec. 11, 1985. Signed into law Dec. 23, 1985.

H.R. 3414 (Ackerman)

Amends the Federal Employees' Flexible and Compressed Work Schedules Act, setting a new termination date of Nov. 14, 1985. Introduced Sept. 23, 1985; referred to Committee on Post Office and Civil Service.

S. 600 (Chafee)

Extends the authority of Federal agencies to experiment with flexible and compressed work schedules under the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 for an additional 3-year period or until Sept. 30, 1988. Introduced Mar. 6, 1985; referred to Committee on Governmental Affairs.

William G. Whittaker

MLC-051

GARCIA DECISION – INCLUDING STATE AND LOCAL GOVERNMENT EMPLOYEES UNDER THE FAIR LABOR STANDARDS ACT

...costs of paying overtime to government workers...

On Feb. 19, 1985, the Supreme Court in *Garcia* v. *San Antonio Metropolitan Transit Authority* ruled that the Congress could constitutionally apply the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) to State and local workers. This decision, in effect, overturned the Court's 1976 decision in the *National League of Cities* v. *Usery*. Thus, for the first time since the 1974 amendments to the FLSA were enacted, most State and local government workers were covered under the Act. How the new decision would affect the pay, hours, and overtime of State and local government workers and what impact this could have on State and local budgets immediately became an issue. In early November 1985, after consultation with representatives from both State and local governments and State and local workers, Congress passed the Fair Labor Standards Act Amendments of 1985.

Section 7(a) of the Fair Labor Standards Act (FLSA) mandates that premium overtime wages (1 and 1/2 times the regular hourly rate) be paid after 40 hours in a workweek. Prior to the 1974 amendments to the FLSA, most State and local nonsupervisory employees were specifically exempted from the 7(a) provisions. Even though these workers became covered in 1974, two special concessions were made for fire fighters and law enforcement personnel because of their unique working conditions. Nevertheless, State and local government opposition was strong and just before coverage was to begin, the Supreme Court stayed the expanded coverage provisions. Later, in 1976, the Supreme Court struck down as unconstitutional the application of the FLSA's minimum wage and overtime provisions to State and local government employees working in traditional government functions (*National League of Cities* v. *Usery*). Thus, these workers never came under the FLSA.

In February 1985, however, the Supreme Court overturned its 1976 decision (*Garcia* v. *San Antonio Metropolitan Transit Authority*). Thus, most State and local employees once again became subject to the provisions of the FLSA.

The February 1985 Supreme Court decision brought strong and immediate opposition from State and local government officials. Most of their concerns focused on the issue of overtime, particularly for police and fire fighters. Many of these workers were already receiving overtime pay in the form of compensatory time off (comp time). The FLSA, however, strongly limits the payment of overtime in the form of comp time, but does permit it until the maximum number of hours stipulated in the Act is reached. Other issues of concern included the treatment of volunteers to State and local governments and joint employment.

The potential for added costs to State and local government budgets clearly existed. But until the State and local governments became familiar with the exemptions and definitions of the FLSA, accurate cost estimates could not be accurately prepared. Any analyses which held current working conditions constant were a "worse case" estimate and should be understood as such. On the other hand, those analyses which examine only union contracts and assume that most workers have similar provisions were preparing a "best case" estimate. The actual costs resulting from the Garcia decision were somewhere between these two estimates, but until more careful analysis is performed we cannot determine at which end of the spectrum the actual costs lie.

LEGISLATION

P.L. 99-150, H.R. 3530/S. 1570 (as amended)

Fair Labor Standards Act Amendments of 1985. Amends the FLSA to allow covered State and local workers to receive compensatory time off in lieu of cash compensation as long as (1) comp time is at the rate of one and one half hours for each FLSA overtime hour worked, and (2) comp time conforms to applicable provisions of a collective bargaining agreement, a memorandum of understanding, or any other agreement between the public agency and representatives of its employees made prior to any overtime work done. Workers engaged in public safety, emergency response, or seasonal work may accrue up to 480 hours of comp time; all other covered workers up to 240 hours of comp time, after which cash compensation must be paid. Requests for use of comp time are to be granted within a reasonable period if such use "does not unduly disrupt the operations of the public agency." Comp time taken during the work week or work period is not to be considered as hours worked for the purpose of computing overtime. If an employee terminates employment, accrued comp time will be paid in the form of cash at a rate not less than (1) the average regular rate received by the employee during the last 3 years of employment or (2) the final regular rate received by an employee, whichever is higher.

State and local public safety employees, who on an optional basis undertake special detail work, will be considered as employed by a separate employer for the purposes of calculating overtime even if their primary employer requires that the second employer hire its public safety employees for particular work or is in any other way involved. State and local government employees who at their option work part-time on an occasional and sporadic basis in a different capacity from their primary employment, will be considered as working for a separate employer for the purposes of calculating overtime under the FLSA. Even if a mutual aid agreement exists, a State or local employee may volunter his or her services in another jurisdiction without the primary employer being considered a joint employer. Employees of a public agency who voluntarily substitute for a co-worker engaged in the same activity shall not be considered as working overtime for FLSA purposes. A person who volunteers his/her services to a State or local government will not be considered as an employee even if expense money, reasonable benefits, or a nominal fee is paid by the State or locality.

Employees of a State or local legislative body, except employees employed by a State or local library or those subject to the general civil service laws of the State or locality, are exempt from the overtime provisions of the FLSA.

An employer may not discriminate against an employee with respect to the employee's wages or other terms or conditions of employment because the employee asserted coverage under the overtime provisions of the FLSA.

The effective date for these amendments is Apr. 15, 1986. However, the payment of monetary overtime compensation may be deferred until Aug. 1, 1986, for FLSA overtime hours worked after Apr. 14, 1986.

Any collective bargaining agreement in effect on Apr. 15, 1986, which permits comp time in lieu of cash compensation for overtime may remain in effect until its expiration date unless otherwise modified. However, such comp time must be at the 1 1/2 times rate and subject to the caps discussed above.

Public agencies are shielded from liability for FLSA overtime violations before the effective date of Apr. 15, 1986. Territories and possessions of the United States are similarly shielded for minimum wage violations prior to Apr. 15, 1986.

Signed into law Nov. 14, 1985.

Dennis M. Roth; Vincent E. Treacy
IB85195

MLC-052

THE HOBBS ACT

...controlling violence in the labor-management relationship...

The Hobbs Act of 1946, amending the Anti-Racketeering Act of 1934, makes guilty of a Federal crime anyone who "in any way or degree obstructs, delays, or affects commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose" to violate these restraints. A penalty of not more than $10,000 or imprisonment for not more than 20 years, or both, is imposed for violators.

At issue is the manner in which the Act applies to the labor-management relationship, to collective bargaining, to the taking of property (wages and benefits) from an employer as the result of a conspiracy (organization and prosecution of a strike), and to chance acts of violence or threats of violence which may occur during and be incidental to a strike.

Active congressional interest in the Act has spanned the past decade and continues in the 99th Congress. No new amendments to the Act have yet been adopted.

In the case of *United States v. Enmons et al.*, decided by the U.S. Supreme Court in February 1973, the employers contended that acts of violence incident to a strike were covered by the Hobbs Act and, thus, were a Federal crime. Also, the employers argued that wages were property within the meaning of the Act, thus potentially converting collective bargaining into extortion. The Supreme Court disagreed. It suggested a narrower interpretation resting upon the concept of a "wrongful" taking of property or violence of a more nearly personal or concerted nature. Mr. Justice Stewart, for the Court, explained:

> ". . . the Hobbs Act has properly been held to reach instances where union officials threatened force or violence against an employer in order to obtain personal payoffs, and where unions used the proscribed means to exact "wage" payments from employers in return for "imposed, unwanted, superfluous and fictitious services" of workers. For in those situations, the employer's property has been misappropriated."

Justice Stewart continued:

> "But the literal language of the statute will not bear the . . . semantic argument that the Hobbs Act reaches the use of violence to achieve legitimate union objectives, such as higher wages in return for genuine services which the employer seeks. In that type of case, there has been no "wrongful" taking of the employer's property; he has paid for the services he bargained for, and the workers receive the wages to which they are entitled in compensation for their services."

Justice Stewart noted that if the Act were broadly interpreted, then "[t]he worker who threw a punch on a picket line, or the striker who deflated the tires on his employer's truck would be subject to a Hobbs Act prosecution and the possibility of 20 years' imprisonment and a $10,000 fine." He denied that the language of the statute placed the Federal Government "in the business of policing the orderly conduct of strikes" or justified so "unprecedented" an "incursion" by the Federal Government "into the criminal jurisdiction of the States."

Not all agreed with the views of the Court's majority in the Enmons case and, almost immediately, efforts commenced to overturn that decision through new Federal legislation. That effort has continued, now, for a decade.

In the 98th Congress, legislation to strengthen the Hobbs Act was introduced both in the House and in the Senate. Extensive hearings were conducted by the Senate Judiciary Committee, though no legislation to amend the Act was adopted.

In the 99th Congress, legislation to amend the Hobbs Act was again introduced. The proposals included: H.R. 83 and H.R. 1719 (a different form) by Representative Crane, S. 300 by Senator Grassley, and S. 479 by Senator Denton. The several bills were referred to the House and Senate Committees on the Judiciary. The Crane proposal is currently pending in the House Subcommittee on Criminal Justice, no action having been taken. In the Senate, the Hobbs Act amendments are pending before the full Committee, no hearings having been conducted.

The Senate Committee on Labor and Human Resources, however, chaired by Senator Hatch, a cosponsor of S. 300, on Feb. 27 and Mar. 26, 1985, conducted hearings on labor/management violence that focused upon the case of the Missouri-Portland Cement Company of Joppa, Illinois.

LEGISLATION

H.R. 83 (Crane)

Redefines the concept of extortion in the Hobbs Act, and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Judiciary.

H.R. 1719 (Crane)
Redefines the concept of extortion under the Hobbs Act, and for other purposes. Introduced Mar. 26, 1985; referred to Committee on Judiciary.

S. 300 (Grassley)
Redefines the concept of extortion under the Hobbs Act, and for other purposes. Introduced Jan. 29, 1985; referred to Committee on the Judiciary.

S. 479 (Denton)
Prohibits "any act of violence or threat of violence in a labor dispute and any conspiracy to accomplish such act or threat and to impose criminal and civil penalties therefor." Introduced Feb. 20, 1985; referred to the Committee on Judiciary.

William G. Whittaker

MLC-053

JOB TRAINING: FY86 BUDGET ISSUES

...some budget cuts made; job corps increased...

Since 1981, Federal employment and training programs have undergone major revisions and significant funding reductions. New legislation was enacted in 1982, replacing the former Comprehensive Employment and Training Act (CETA) with a new private sector-oriented Job Training Partnership Act (JTPA). For the first time since enactment of JTPA, the Reagan Administration has proposed major funding cutbacks for some of its components, most notably the Job Corps for disadvantaged youth. In its concurrent budget resolution, COngress rejected these cuts although they were originally approved by the Senate, which also recommended additional cuts, not proposed by the Administration, in the U.S. Employment Service, the Nation's major public labor exchange program. However, the Senate rejected the President's proposal to eliminate Job Corps, and instead endorsed a 30% cut. Both the Administration and the Senate originally recommended elimination of a related employment and training program for welfare recipients, known as the Work Incentive (WIN) Program.

Funding for the first full year of operations under JTPA was set at $3.7 billion, which is approximately the same level provided for the second program year, which began July 1, 1985. For the program year beginning July 1, 1986, however, President Reagan proposed a reduction to $2.8 billion. This would be achieved by eliminating entirely the 20-year-old Job Corps, which began under the Economic Opportunity Act and now has been incorporated into JTPA. Rescissions in 1985 and further reductions in 1986 were proposed by the President for the summer youth employment program under JTPA and the dislocated workers program, authorized under Title III. (Congress failed to approve the rescissions and they expired at the end of April.) Additional cuts would affect national activities such as technical assistance, pilot projects and demonstrations.

Support for the Job Corps was expressed immediately after President Reagan's proposed budget reached Capitol Hill, and the House Education and Labor Committee reported a resolution, H.Res. 72, expressing the support of the House of Representatives for the Job Corps program. Similar resolutions are pending in the Senate.

Final decisions regarding funding levels for grant programs are made in the House and Senate Appropriations Committees, although Congress first must adopt a concurrent resolution, establishing non-binding targets for the Appropriations Committee to use as guidance when making their final decisions. The Senate Budget Committee initially recommended a budget resolution, S.Con.Res. 32, which assumed significant reductions in Job Corps but not total elimination. The Committee later reached a compromise with the White House on a spending package that would have terminated the Job Corps completely. However, the version of the resolution passed by the full Senate assumed a 30% cut in Job Corps rather than complete termination. Additional cuts in JTPA, along the lines recommended by President Reagan, were assumed by the Senate.

The House version of the resolution, on the other hand, would maintain all job training programs at their current levels, plus an adjustment for inflation. The final compromise version of the budget resolution adopted the House language.

The Senate went further than President Reagan in proposing funding cuts for the U.S. Employment Service, which is a public labor exchange for employers seeking workers and workers seeking jobs. The Administration had proposed a rescission for the Employment Service in 1985 and a small increase in 1986. The rescission has been rejected. However, the Senate endorsed a one-third cut in funding for the Employment Service and a revision of the program's allocation formula. Under current law, all States receive an allotment from the Employment Service, according to the size of their civilian labor force and their unemployment rate. However, the Senate would provide Employment Service funds only to those States with unemployment rates above a certain level, possibly 6 or 7%. No formal legislation has been introduced to implement this change in the Employment Service. The House, meanwhile, recommended that the Employment Service be maintained at its current level in FY86.

Finally, both the President and the Senate originally agreed that the Work Incentive Program for welfare recipients should be abolished. The Administration has consistently recommended mandatory job search and work requirements for welfare recipients as an alternative to the WIN program. Again, the House rejected this request and would maintain WIN at current levels with an inflation adjustment. The final conference version adopted the House recommendation.

The House on October 2 passed an FY86 appropriations bill, containing no significant cuts for job training programs except in the dislocated worker program. The Senate passed its version on October 22, with cuts in both the dislocated worker and summer youth employment programs. The final conference committee version, enacted on December 13, contains the cuts requested by the Administration in the dislocated worker and summer youth programs, but also includes a small increase for Job Corps. Job training funds are subject to sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985.

LEGISLATION

P.L. 99-103, H.J.Res. 388
Government-wide continuing resolution effective until November 14 or until individual appropriations bills are enacted. Signed Sept. 30, 1985.

P.L. 99-154, H.J.Res. 441
Government-wide continuing resolution effective until December 12 or until individual appropriations bills are enacted. Signed Nov. 14, 1985.

P.L. 99-178, H.R. 3424
FY86 appropriations bill for Departments of Labor, Health and Human Services and Education. Reported by the House Appropriations Committee on September 26 (H.Rept. 99-289). Passed by full House on October 2. Reported by Senate Appropriations Committee on October 4 (S. Rept. 99-151). Passed the full Senate on October 22. Conference report (H.Rept. 99-402) passed the House on December 5 and the Senate on December 6. Signed into law on Dec. 13, 1985.

H.Con.Res. 152 (Gray et al.)
First Concurrent Resolution on the FY86 budget. Reported by Budget Committee May 20. (H.Rpt. 99-133). S.Con.Res. 32 passed in lieu by the full House on May 23.

H.Res. 72 (Martinez, et al.)
Sense of the House resolution stating that efforts should be made to maintain funding for the Job Corps. Introduced Feb. 21, 1985; reported by Education and Labor Committee Apr. 4, 1985 (H.Rept. 99-39).

S.Con.Res. 16 (Hatch, et al.)
Sense of the Congress resolution stating that Job Corps should not be eliminated. Introduced Feb. 20, 1985.

S.Con.Res. 22 (Hatch, et al.)
Sense of the Congress resolution stating that sufficient funds should be made available to maintain Job Corps. Introduced Feb. 27, 1985.

S.Con.Res. 32 (Domenici, et al.)
First concurrent resolution on the FY86 budget. Reported by the Senate Budget Committee on Mar. 20, 1985 (S.Rept. 99-15). Passed by full Senate on May 10, 1985. Passed by the House in lieu of H.Con.Res. 152 on May 23. Conference report (H.Rept. 99-249) passed by the House and Senate August 1.

S.Res. 50 (Cranston, et al.)
Sense of the Senate resolution reaffirming support for Job Corps. Introduced Jan. 24, 1985.

Karen Spar

MLC-054

PLANT CLOSINGS AND BUSINESS RELOCATIONS

...a recurring issue in Congress...

What, if any, Federal legislation should be passed with regard to plant closings has been a recurring congressional issue at least since 1974, ebbing and flowing with fluctuations in the business cycle and with major structural changes in various industries.

During recessions, plant closings generally increase as a decline in overall demand forces out the weaker businesses in any given industry. Structural changes in our economy, such as changes in consumer tastes, increased automation, or technological obsolescence, lead to plant closings. Increased inputs, high interest rates, and poor management also play a part in individual plant closings.

Some Members have argued Congress should pass legislation regulating plant closing so as to forewarn workers and local communities and assist them in securing employment and new industries. Others have argued that Congress should provide for Federal aid to declining industries in America to keep them alive. The Chrysler bailout was one such example of this type of aid. Still others argue that the market is best left to make its own adjustments, without assistance.

Until the passage of the Job Training Partnership Act (P.L. 97-300, Section 462) in 1983, no Federal agency was required to collect statistics on plant closings, and none had reliable overall figures. Under that Act, the Labor Department is required to begin collecting data on plant closings and to publish an annual report on plant closings, the number of workers displaced, the location of the affected firms, and the types of industries involved. Several private groups have also attempted estimates based on data of Dun & Bradstreet, a credit rating firm.

Plant closing bills in Congress (including H.R. 2847, introduced in the 98th Congress) have generally provided portions or combinations of the following: (1) protections to workers including specified periods of prenotification of a closure, unemployment compensation, retraining, job search, transfer rights, and relocation allowances; (2) Federal financial assistance to businesses threatened with closures (such assistance can include grants and preference for certain types of government contracts); and (3) financial assistance to communities facing declining revenues as a result of plant closings. Financial assistance to workers or communities would be paid either by the Federal Government or in some instances by the business closing the plant (especially if the plant is relocating to another part of the country or abroad). Monetary penalties as a percentage of tax payments are prescribed for noncompliance.

Those in favor of Federal plant closing legislation argue that (1) all employees should be relieved of some of the burdens of their unemployment, job search, and relocation expenses; (2) the responsibility now assumed by the Federal Government under the Trade Act of 1974 (P.L. 93-168), and under the Redwood Act of 1978 (P.L. 95-250), should be extended to all private industry; (3) in the case of the relocating plant, the responsible party (the relocating plant) should bear the cost of its action; and (4) some States (Maine, Wisconsin, and Michigan) and some European nations (including West Germany, Sweden, and the United Kingdom) already have plant closing laws.

Those opposing Federal plant closing legislation argue that (1) it could promote financial loss by businesses attempting to recover from several years of financial hardship (from the recession, high interest rates, and structural changes in the economy); (2) it could discourage rather than encourage industrial efficiency -- either by dragging out the plant closing after the decision has been made, in order to give employees sufficient notice; or by attempting to keep alive dying plants or industries; (3) it would tend to encourage unemployment and dependency rather than self-reliance among displaced workers; and (4) nearly half of all collective bargaining agreements already contain worker protections in case of plant closings, or restrict management's right to relocate.

For more information on the plant closing issue, see CRS IB83152, Plant Closings and Business Relocations.

LEGISLATION

H.R. 1616 (Ford, W.D. et al.)

Labor-Management Notification and Consultation Act of 1985. Requires businesses to provde 3 months' advance notice to employees, their union, and State and local officials before undertaking a permanent layoff of 50 or more workers. (Temporary layoffs, where employees would be recalled within 90 days, would not be covered by this legislation.) Notice may be reduced if the business demonstrates that "unavoidable business circumstances" prevent the employer from withholding the closing.

Enforcement. Act would be enforced by the Department of Labor. The Secretary of Labor may seek an injunction if he believes that an employer has ordered a plant closing in violation of the Act. If the plant has actually closed, the injunction may require restoration of operations and reinstatement with back pay and related benefits where appropriate.

Employees may bring a civil action for damages if they are laid off in violation of the Act. Damages may include back pay and benefits equal to one day's pay and fringe benefits for each day of layoff in violation of the layoff period -- plus general and punitive damages. On the other hand, employers may sue for damages stemming from a violation of a protective order regarding disclosure of proprietary information. H.R. 1616 introduced Mar. 30, 1985; referred to Committee on Education and Labor. Hearings held by Subcommittee on Labor-Management Relations May 15, June 26. 1985. Forwarded to full Committee June 26. Hearings held by Subcommittee on Employment Opportunities May 15, June 26. Forwarded to full Committee June 26. Passed the full committee July 23, 1985. Reported Oct. 2 , 1985, amended (H.Rept. 99-336). Failed to pass the House Nov. 21, 1985.

Mary Jane Bolle
IB83152

MLC-055

TARGETED JOBS TAX CREDIT (TJTC)

...fate of program undecided in December...

The TJTC was created by the Revenue Act of 1978 (P.L. 95-600, Sec. 321) to encourage employers to hire persons from hard-to-employ groups (i.e., economically disadvantaged cooperative education students, youth age 18-24, or Vietnam-era veterans; vocational rehabilitation referrals; individuals receiving general assistance, Supplemental Security Income, or Aid to Families with Dependent Children). For hiring a targeted group member, an employer can claim a credit of 50% the first year and 25% the second year of the first $6,000 earned annually by the TJTC-hire, subject to certain limitations. There is also a special summer credit for hiring 16-17 year olds from economically disadvantaged families. It is equal to 85% of the first $3,000 earned by the TJTC-hire within any 90-day period from May through mid-September.

Since its inception, the TJTC has been amended and extended on almost an annual basis. The Deficit

Reduction Act of 1984 (P.L. 98-369, Sec. 1041) calls for the program to expire effective Jan. 1, 1986, unless extended. Both the House Ways and Means Committee and the Senate Finance Committee held hearings on the TJTC in March and November 1985, respectively.

H.R. 3838, the tax reform bill, calls for extension and amendment of the program. S. 1912, on the other hand, provides for extension of the TJTC (as well as other expiring programs) in its present form to give Congress time to further study the matter. However, the House and Senate recessed in December 1985 without agreeing to TJTC extension. Consequently, employers will be entitled to a tax credit only for eligible workers hired on or before Dec. 31, 1985. It is possible that the program will be made retroactive or reconstituted after Congress comes back in session.

LEGISLATION

H.R. 983 (Rangel et al.)
Amends the Internal Revenue Code of 1954 to extend the TJTC from 1985 to 1990. Increases the amount of wages to be taken into account for calculation of the credit from $6,000 to $10,000 per year. Revises the definition of economically disadvantaged families from those having incomes below 70% to below 80% of the Bureau of Labor Statistics' lower living standard. Introduced Feb. 6, 1985; referred to Committee on Ways and Means.

S. 1250 (Heinz et al.)
Amends the Internal Revenue Code of 1954 to extend the TJTC from 1985 to 1990. Liberalizes the eligibility requirements for membership in the vocational rehabilitation referral and SSI recipient groups. Modifies the eligibility requirements for membership in the general assistance recipient group. Introduced June 6, 1985; referred to Committee on Finance.

Linda LeGrande

MLC-056

WALSH-HEALEY PUBLIC CONTRACTS ACT

...overtime pay requirements for Federal contract workers...

The Walsh-Healey Public Contracts Act (1936) requires that persons employed in the manufacture of goods, purchased through contract by the Federal Government, be paid time-and-one-half of the employee's regular hourly wage for hours worked *in excess of 8 hours per day.* Legislation has been introduced for several Congresses to require payment of overtime rates (time-and-one-half) only for hours worked *in excess of 40 per week* as regularly provided for covered workers under the Fair Labor Standards Act.

In the 99th Congress, both the Walsh-Healey Act and the companion statute, the Contract Work Hours and Safety Standards Act (CWHSSA), were amended to eliminate the existing 8-hour pre-overtime pay standard and substitute in its place the 40-hour standard of the Fair Labor Standards Act. Amendment of the CWHSSA in this manner has the effect of altering the overtime pay protections both for workers engaged under the Davis-Bacon Act and the McNamara-O'Hara Service Contract Act.

More attention was focused upon the Walsh-Healey Act (and upon the CWHSSA) during the 99th Congress than in any other Congress of recent memory. Amendment of the statutes was proposed from at least three and possibly from four different directions. These efforts are discussed below.

The Walsh-Healey Public Contracts Act (with associated statutes) sets basic standards for private sector workers producing materials, supplies, articles, equipment, or naval vessels *under contract* for the Federal Government. Among other standards, the Act requires that time- and-one-half of one's regular wage be paid for hours worked in excess of 8 hours per day. On the other hand, the Fair Labor Standards Act (FLSA), the basic Federal wage and overtime pay statute, requires that private sector employees be paid time-and-one-half after 40 hours per week, normally, setting no daily pre-overtime pay limitation. In addition, direct Federal executive branch employees (along with those in certain other agencies) are granted, under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (as extended in 1982), the option of working extended daily hours (in excess of 8 per day) within an 80- hour biweekly period prior to the requirement for overtime pay.

Noting the difference between the three statutes, some observers suggest that the Walsh-Healey Act be amended to eliminate the 8-hour overtime pay provision. Defenders of the Act, recalling the long struggle by organized workers to achieve the 8-hour day, regard such proposals as an assault upon labor standards and suggest that, rather than seeking the return of a longer workday, shorter hours of work should be the goal.

A campaign to eliminate the 8-hour provision from the Walsh-Healey Act commenced during the late 1960s and has continued since that time. Appropriate legislation, in various forms, has been offered in the past several congresses. Hearings on the issue were conducted, most recently (prior to the 99th Congress), by the Senate Subcommittee on Labor (March 1981) and by the House Judiciary Subcommittee on Administrative Law and Governmental Relations (May 1984).

Action in the 99th Congress.

Efforts to amend the Walsh-Healey Act (and the related Contract Work Hours and Safety Standards Act, or CWHSSA) has taken a variety of forms during the 99th Congress.

(1) *Direct Amendment of the Statutes*

Representative Quillen has introduced legislation (H.R. 410) to allow for a ten-hour day prior to the requirement that overtime rates be paid. A broader initiative (H.R. 1893), by Representative Kindness, provides simply for a 40-hour pre-overtime standard workweek with no daily hours limitations. The latter would bring the Walsh-Healey Act and the CWHSSA into conformity with the Fair Labor Standards Act.

On May [illegible] 1985, Senator Armstrong introduced S. 1105, the "Federal Contractor Employees Flexitime Act" -- actually, amendments to the CWHSSA and Walsh-Healey Act. Like the Kindness proposal in the House, it would create a 40-hour pre-overtime pay standard. The language of S. 1105, slightly amended, has since been added to S. 1160, the National Defense Authorization Act for Fiscal Year 1986. (See below.)

(2) *The First Budget Resolution for Fiscal Year 1986*

On May 6, 1985, while the Senate had under consideration S. Con. Res. 32, setting forth the congressional budget, Senator Nickles offered an amendment which read:

> It is the sense of the Congress that overall
> Federal outlays should be reduced and it is assumed
> that legislation should be enacted to conform the
> overtime requirements under the Walsh-Healey
> Act
> and the Contract Work Hours and Safety Stand-
> ards
> Act with the Fair Labor Standards Act and it is
> further assumed that the resulting outlay reduc-
> tions
> shall be utilized to achieve the previously agree-
> upon
> program and outlay savings.

The Nickles amendment was, in effect, an instruction to the respective subject area committees to institute savings through modification of the Walsh-Healey Act and the CWHSSA. That any actual savings would result, some might argue, was a gratuitous assumption.

Debate was relatively brief. The resolution was adopted on a vote of 86 yeas to 5 nays. (*Congressional Record*, May 6, 1985, p. S5451-S5453.)

(3) *The National Defense Authorization Act for Fiscal Year 1986*

Senator Gramm, on Apr. 3, 1985, introduced S. 868, the "Department of Defense Efficiency and Economy Act of 1985." The bill, among other provisions, modified the application of the CWHSSA, Davis-Bacon, and Walsh-Healey Acts to Federal defense procurement. Referred to the Senate Committee on Armed Services, its language, in modified form, was added to the National Defense Authorization Act (S. 1160). As part of the latter, "the Gramm amendment" replaced the eight-hour standard with a ten-hour day -- but only with respect to Federal defense contracts.

On the floor, Senator Kennedy proposed that the Davis-Bacon section of the Gramm amendment be deleted. After lengthy debate, the Kennedy motion was rejected on a vote of 49 yeas to 49 nays. No comparable effort, however, was made to preserve the integrity of the CWHSSA and the Walsh-Healey Act. Thus, the measure was adopted on June 5, 1985 (92 yeas to 3 nays) with the Gramm amendment in tact.

Since the House-passed version of the Defense Authorization legislation contained no similar language, the conferees were left to resolve the issue. Initially, the House conferees objected to deletion of prevailing wage and overtime pay protections for workers engaged in contract work for the defense establishment. However, by July 25, 1985, accommodation had been reached. First. *The Gramm Davis-Bacon amendment to the Act would be dropped, in effect maintaining Davis-Bacon standards unchanged.* Second. *The conferees first deleted the Gramm language with respect to the CWHSSA and Walsh-Healey Act but then, in keeping with the Nickles amendment to the first budget resolution (discussed above), adopted with slight modification of language of S. 1105, the Armstrong proposal.*

As reported, therefore, the treatment of the Walsh-Healey Act and the CWHSSA in S. 1160 was broader than that proposed by Senator Gramm. First. *The eight-hour provision was replaced with the simple 40-hour week as in the FLSA.* Second. *The amendments applied to all Federal contract work, not merely that performed for the Department of Defense.* Third. *The effective date was set at Jan. 1, 1986 -- thus nullifying a provision added in the Committee on Labor and Human Resources by Senator Kennedy (and urged by the Senator during discussion of the budget resolution) to defer the application of the changes in overtime pay standards in order to protect contractors currently bound by a collective bargaining agreement.*

By a vote of 94 yeas, 5 nays, and 1 not voting, the Senate approved the conference report on July 30, 1985, just prior to the August recess. The House took no action prior to the August recess and delayed consideration of the legislation well into the fall. When the House took up the conference report on Oct. 29, 1985, there was no specific vote on the Walsh-Healey Act. S. 1160 was signed into law by President Reagan on Nov. 8, 1985 (P.L. 99-145).

(4) Flexible Schedules Legislation

While industry had long sought amendment of the Walsh-Healey Act for its own reasons (the cost factor of overtime pay requirements, the intrusion by Government into management decision-making, etc.), at least since the early 1970s, amendment of the Act has been urged by industry as an "alternative work scheduling" option. With the adoption of the Federal Employees' Flexible and Compressed Work Schedules legislation in 1978, the two initiatives have become increasingly linked. Organized labor was placed in the ambiguous position of supporting compressed scheduling (one flexible option) for Federal sector workers while opposing amendment of the Walsh-Healey Act to permit a similar arrangement for those engaged in contract work for the Federal Government. When the Federal employees' flexible hours experiment was extended for a second three years in 1982, Senator Armstrong proposed amendment of the Walsh-Healey Act as a rider to the public employee bill -- but without success.

In 1985, the Federal employees' flexible schedules program was once more up for review. In July of 1985, to prevent the program from terminating, Congress approved an interim extension through September 30 -- with other extensions following. If there was indeed linkage between the flexible schedules legislation and the Walsh-Healey/CWHSSA amendments in the 99th Congress, that connection was severed when, on Oct. 29, 1985, the House accepted the conference report on S. 1160. On Nov. 8, 1985, S. 1160 was signed into law by President Reagan (P.L. 99-145). The Walsh-Healey Act and the CWHSSA had been amended. On Dec. 11, 1985, the flexible hours legislation (H.R. 1534) was passed by the Senate and, on Dec. 23, was signed into law (P.L. 99-196).

LEGISLATION

H.R. 410 (Quillen)
Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act "to permit certain employees to work a 10-hour day in case of a 4-day workweek, and for other purposes." Introduced Jan. 3, 1985; referred jointly to Committees on the Judiciary and on Education and Labor.

H.R. 1893 (Kindness)
Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act "to permit employees, to whom such Acts apply, to work any combination of hours in a 40-hour workweek." Introduced Apr. 2, 1985; referred to Committee on Education and Labor.

S. 868 (Gramm)
Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act (CWHSSA) to make them inapplicable to the Department of Defense or to any contract of the Department of Defense except that overtime pay shall be required (time-and-one-half) where workers are engaged for in excess of ten hours in a single workday, and for other purposes. Introduced Apr. 3, 1985; referred to Committee on Armed Services. [The Walsh-Healey and CWHSSA provisions of S. 868, somewhat modified, were added to S. 1160, the National Defense Authorization Act for Fiscal Year 1986, as reported by the Committee on Armed Services and adopted by the Senate. S. 1160 was signed into law as P.L. 99-145 on Nov. 8, 1985.]

S. 1105 (Armstrong)
Federal Contractor Employees Flexitime Act. Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to eliminate the 8-hour pre-overtime pay standards of the statutes, substituting a 40-hour weekly standard. Introduced May 8, 1985; referred to Committee on Labor and Human Resources. Following hearings June 13, S. 1105 was reported by the Committee July 17, 1985. The substance of S. 1105, slightly modified, was added by House-Senate conferees to S. 1160, the National Defense Authorization Act for FY86. On Nov. 8, 1985, S. 1160 was signed into law (P.L. 99-145).

William G. Whittaker

LAW, CRIME, AND JUSTICE

MLC-057

DRUG TRAFFIC CONTROL: FEDERAL EFFORTS

...continued high level of interest...

The nonmedical use of dangerous and dependence-producing drugs has been a matter of serious concern in the United States for well over half a century, but in the past 20 or so years political interest in the problem has sharpened.

The White House and Congress have reacted to public alarm over evidence of the widespread abuse of drugs with new initiatives -- legislative and administrative -- and also the expansion of existing programs. Interest and action have embraced all general approaches to the drug abuse problem: in the areas of treatment, education, and research, as well as so-called law enforcement or "supply reduction".

Budget totals provide a measure of the growth in the general Federal commitment to prevention of drug abuse, especially since FY69: spending for all activities with this purpose rose from $82 million in that year to approximately $1.7 billion in FY85; drug abuse law enforcement spending went from $36 million to $1.4 billion during the same period.

The 98th Congress saw the culmination of many years of work on a number of general anti-crime measures as well as on several that are specifically aimed at the drug problem. The principal enactment was an omnibus crime control bill consisting of twenty three titles (or "chapters") dealing with a broad range of matters pertaining to criminal justice and procedure (Title II of P.L. 98-473). Despite this, legislative interest in the drug issue continues at a high level in the current Congress - areas of particular concern being military participation in drug law enforcement, controls on the "laundering" of money derived from illicit drug traffic, and the further reduction of overseas drug production. Enactments of the first session included (1) amendments to the Foreign Assistance Act to further encourage the control of drug production and trafficking by recipients of foreign aid (P.L. 99-83) and (2) additional authority for participation by the Armed Services in efforts to interdict illicit drugs (P.L. 99-145 and P.L. 99-190).

Drug enforcement activities of the U.S. Government generally are subject in FY86 funding sequestrations under the terms of P.L. 99-177 (Gramm-Rudman-Hollings Deficit Reduction Act).

LEGISLATION

P.L. 99-145, S. 1160

Department of Defense Authorizations, FY86. Senate floor amendments include an amended version of S. 531, clarifying military support for civilian drug interdiction, including authorization of the establishment and operation of one or more reserve forces airborne surveillance and detection units. Another floor amendment requires the Attorney General to conduct regular programs on military cooperation with civilian law enforcement officials. House bill, as reported, contains essential provisions of H.R. 1307 (see above). House floor amendments (1) adopt the provisions of H.R. 2553 (see above), authorizing direct military participation in drug interdiction operations taking place outside the U.S. and (2) provide for a study on the use of the E-2 aircraft for drug interdiction purposes. Conference retained authorization for special airborne surveillance and detection units but left to the Secretary of Defense the assignment of the direction of such units and permitted existing active units to be utilized while also allowing for possibility of using reserves. Conference rejected House provision allowing direct military participation in drug interdiction operations but provided for the mandatory assignment of Coast Guard personnel to each naval vessel at sea in a drug interdiction area and authorized 500 additional Coast Guard personnel for this purpose. S. 1160 passed Senate June 5, 1985. Passed House, amended, June 27. Senate disagreed to House amendments, July 11. Conference report (H.Rept. 99-235) agreed to by Senate, July 30. Conference report agreed to by House Oct. 29. Signed by the President Nov. 8, 1985. H.R. 1872 reported by Armed Services Committee May 10,1985 (H.Rept. 99-81). Passed House, amended, and incorporated into S. 1160, June 27.

P.L. 99-190, H.J.Res. 465

Further Continuing Appropriations, FY86. Contains provisions to (1) earmark $300 million for the enhancement of drug interdiction efforts by the Department of Defense, of which $35 million is further earmarked for the commencement of the configuration of an AC-130H-30 pressurized drug surveillance aircraft and the establishment of an "appropriate" command and control element for the drug interdiction mission within the Air Force, and (2) require that 50 percent of the funds (excluding International Narcotics Control funds) for Jamaica and Peru be withheld from obligation unless the President determines and reports to Congress that these Governments are "sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interests of the United States." House and Senate agreed to conference report (H.Rept. 99-450) Dec. 19, 1985. Signed by the President Dec. 19, 1985.

H.R. 1307 (English)/S. 531 (DeConcini et al.)

Readiness Enhancement of Air Force Reserve Special Operations Act of 1985. Authorizes establishment of a Special Operations Wing of the Air Force Reserve, principally for support of the civilian drug interdiction mission during peacetime. Makes permanent the Defense Department's Task Force on Drug Law Enforcement. Authorizes such sums as may be necessary for these purposes and requires the Secretary of Defense to submit a report on the manner in which appropriated funds are to be spent. H.R. 1307 introduced Feb. 27, 1985; referred to Armed Services. Included as section 305 of H.R. 1872, FY86 Defense Department authorizations bill, as reported May 10 (H.Rept. 99-81). H.R. 1872 passed House June 27, 1985. S. 531 introduced Feb. 27, 1985; referred to Armed Services. Amended version included, by floor amendment, in S. 1160 (Defense authorizations for FY86), which passed Senate June 5, 1985 (see below).

H.R. 2553 (Bennett, Rangel, Gilman, Montgomery, and Shaw)

Amends title 10, U.S. Code, to authorize members of the Armed Forces to participate directly in operations relating to the interdiction of illicit drugs, outside the United States. Introduced May 21, 1985; referred to Armed Services. Adopted as floor amendment to H.R. 1872, Defense Department authorizations bill, June 26.

H.R. 2786 (St. Germain, McCollum et al.)/S. 1335 (Thurmond, D'Amato, Roth, Denton, and Hawkins)

Money Laundering Control Act of 1985. Makes it a Federal criminal offense, and also a civil offense, to initiate or assist in the "laundering" of funds -- through or by a financial institution -- that have been derived from unlawful activity, or to do so in the futherance of such activity; authorizes criminal penalties of imprisonment for up to 20 years and/or a fine of up to $250,000 or twice the value of the amount involved in the laundering; authorizes a civil penalty of a fine of up to $10,000 or the value of the funds involved in the transaction. Amends Right to Financial Privacy Act to permit financial institutions to disclose evidence of money laundering to Government authorities. Amends the Currency and Foreign Transactions Reporting Act to broaden the authority of the Secretary of the Treasury to obtain information for the purpose of ensuring compliance with the Act and to permit him to make available to other Federal agencies, and to State and local agencies, information filed in certain reports required by the Act. Authorizes wiretaps to investigate offenses involving prohibited transactions in monetary instruments. Makes it a Federal offense knowingly to receive the proceeds of any felony violation of Federal law, or the import into the U.S. of the proceeds of any felony violation of foreign narcotics laws. Provides for the civil forfeiture of all funds involved in a laundering violation and also any property that represents the proceeds of such funds; also provides for mandatory criminal forfeiture of money or property involved, or the proceeds, or substitute assets where there has been a conviction of an individual for a laundering offense. H.R. 2786 introduced June 18, 1985; referred jointly to Banking, Finance and Urban Affairs and the Judiciary. S. 1335 introduced June 20, 1985; referred to Judiciary. (Related bills: H.R. 1367, H.R. 1474, S. 572, S. 1385.)

H.R. 3404 (Rangel and Gilman)
Narcotics Control Trade Act. Requires the President to make determinations with respect to the cooperation by drug-source countries in preventing narcotics and other dangerous drugs from "significantly affecting" the U.S. and to report to Congress the name of any country failing to provide such cooperation. Provides that any country so named would be ineligible for most-favored-nation treatment in trade with the U.S. Introduced Sept. 20, 1985; referred to Ways and Means.

S. 237 (Thurmond et al.)
Narrows the application, in Federal criminal proceedings, of the Fourth Amendment "exclusionary rule" requiring suppression of improperly seized evidence, by allowing admission where the officers making the seizure were proceeding upon a "reasonable, good faith belief" that they were acting properly. Introduced Jan. 22, 1985; referred to Judiciary. (Related bill: S. 29)

S. 1437 (Thurmond et al.)/H.R. 2977 (Lungren, Fish et al.)
Designer Drug Enforcement Act of 1985. Amends the Controlled Substances Act to establish new penalties for the manufacture or distribution of a "designer drug" (up to 15 years or up to $250,000, or both) -- "designer drug" being defined as a substance, other than a controlled substance, that has a chemical structure "substantially similar" to that of a controlled substance in Schedules I or II. S. 1437 introduced July 16, 1985; referred to Judiciary. Reported, amended, Nov. 21 (S.Rept. 99-196). Passed Senate, amended, Dec. 18. In House, referred jointly to Energy and Commerce and to Judiciary Dec. 18, 1985. H.R. 2977 introduced July 11, 1985; referred to Energy and Commerce and to Judiciary. (Related bill: S. 1417)

S. 1583 (D'Amato, Hawkins and Abdnor)
Comprehensive Drug Law Enforcement, Prevention, and Treatment Act. Directs the Justice and Customs Forfeiture Funds to be used entirely for drug law enforcement, prevention, and treatment purposes. Introduced Aug. 1, 1985; referred to Judiciary.

S. 1694 (DeConcini, Chiles, and Hawkins)/H.R. 3479 (English)
Anti-Smuggling Act of 1985. Amends the Tariff Act of 1930 to require immediate reporting to Customs of the arrival of any vessel, vehicle or aircraft from abroad (instead of allowing 24 hours, as at present). Imposes civil and criminal penalties and civil forfeiture for airdropping drugs from an aircraft to a waiting vessel on the high seas or within customs waters. Provides statutory authority for the operation of U.S. customs facilities in foreign countries and the extension of U.S. customs laws to foreign locations with the consent of the country concerned. Introduced Sept. 24, 1985; referred to Finance. H.R. 3479 introduced Oct. 2, 1985; referred jointly to Ways and Means and to Public Works and Transportation.

Harry Hogan
IB84011

MLC-058

GUN CONTROL

...McClure-Volkmer bill reintroduced...

The Congress, like the American public, continues to be divided over gun control. Proponents of stricter regulation hold that the easy availability of firearms, especially handguns, is a major factor in what they maintain is an unacceptably high national rate of violent crime. They contend that generally lower crime rates in comparable Western countries can be attributed, at least in part, to strong gun laws. Opponents disagree and point instead to flaws in the U.S. criminal justice system, which they argue fails to punish convicted offenders or to deter potential offenders. Fearing policies that might lead to a general disarming of the American people, they in principle oppose most existing Federal gun control laws, particularly Title I of the Gun Control Act of 1968, and are likely to favor the McClure-Volkmer bill (S. 49/H.R. 945) to modify that statute.

LEGISLATION

H.R. 1442 (Rodino et al.)
Handgun Crime Control Act of 1985. Amends the Gun Control Act of 1968 to (1) ban the domestic manufacture, sale, or assembly of any handgun that has a barrel of 3 inches or less and that is not found by the Attorney General to be "generally recognized as particularly suitable for or readily

adaptable to sporting purposese; (2) require pre-purchase clearance with local law enforcement officials and the FBI, during a 21-day waiting period, of all handgun transfers, both commercial and private; (3) encourage State requisition of permits to purchase and to carry handguns; (4) ban the intrastate mail-order sale of handguns; (5) prohibit the sale of handguns by pawnbrokers; (6) tighten regulation of the firearms industry, including substantial fee increases; (7) establish additional recordkeeping and reporting requirements for the firearms industry; (8) provide for the civil liability of a gun transferor for death or personal injury inflicted with that gun by the transferee; and (9) transfer to the Justice Department some firearm regulation functions of the Bureau of Alcohol, Tobacco and Firearms. Introduced Mar. 6, 1985; referred to Judiciary.

H.R. 3132 (Biaggi, Hughes et al.)
Law Enforcement Officers Protection Act of 1985. Amends the Gun Control Act to ban the further manufacture or import of certain (specified) varieties of armor-piercing ammunition, based on substance used in construction, and to provide for the revocation of licenses of dealers who willfully sell such ammunition. H.R. 4 introduced Jan. 3, 1985; referred to Judiciary. H.R. 3132, clean bill, approved for full committee and introduced July 31, 1985. Reported, amended, Nov. 6 (H.Rept. 99-360). Passed House, amended, Dec. 17. In Senate, placed on Legislative Calendar under General Orders Calendar no. 490. [Related bills: S. 104, H.R. 13].

H.R. 3155 (Rodino, Hughes, et al.)
Racketeer Weapons and Violent Crime Control Act of 1985. Requires law enforcement record check for purchase of a handgun through commercial channels, during a waiting period of up to 15 days; prohibits the transfer of machine guns or silencers, and their possession by anyone other than persons owning one (registered) at the time the provision becomes effective; amends existing law to permit transactions by licensees at gun shows; broadens requirements for licensee application approval to include an absence of conflict with any applicable State law that might be incurred by the applicant's conduct of of business; eliminates recordkeeping requirements for licensed collectors in connection with the transfer of curios to other licensed collectors; eliminates recordkeeping requirements in connection with the sale of ammunition in quantities of less than 1,000 rounds; broadens the category of persons who may be relieved of disabilities incurred pursuant to the provisions of the Gun Control Act; and raises license fees. Introduced Aug. 1, 1985; referred to Judiciary.

S. 49 (McClure et al.)/H.R. 945 (Volkmer et al.)
Firearms Owners Protection Act. Amends the Gun Control Act of 1968 to (1) eliminate restrictions on the sale of firearms by licensees to out-of-State residents, providing such sales conform to the laws of the States of both the buyer and the seller; (2) require proof of "willfulness" to convict for violation of a substantial number of the Act's provisions; (3) clarify requirements for obtaining manufacturer, importer and dealer licenses; (4) exempt ammunition dealers from the Act's requirements; (5) restrict the right of inspection of licensees by Federal agents and the use of license revocation authority; (6) restrict Treasury Department authority to require licensees to submit reports based on records kept pursuant to the Act; (7) restrict the grounds for seizure of firearms involved in violations of the Act; (8) prohibit the issuance of any regulations designed to create a central registry of firearms transactions; (9) require a 90-day comment period with respect to any proposed regulation under the Act; (10) provide that the States may not interfere with otherwise lawful interstate transport of unloaded firearms; (11) nullify any regulations that might be issued with respect to the completion of forms or affidavits in connection with the retail sale of black powder in quantities up to 50 pounds. S. 49 introduced Jan. 3, 1985; placed on the Senate calendar. Passed Senate, amended, July 9, 1985. H.R. 945 introduced Feb. 6, 1985; referred to Judiciary. H.Res. 290 to take up H.R. 945 introduced Oct. 3; referred to Rules. Petition to discharge Rules from further consideration of H.Res. 290 filed Oct. 22, 1985.

S. 104 (Thurmond et al.)/H.R. 13 (Brooks et al.)
Law Enforcement Officers Protection Act of 1985. Amends the Gun Control Act to ban the further manufacture or import of certain (specified) varieties of armor-piercing ammunition, based on substance used in construction. S. 104 introduced Jan. 3, 1985; referred to Judiciary. Reported, amended, July 29, 1985 (no written report). H.R. 13 introduced Jan. 3, 1985; referred to Judiciary. [Related bill. H.R. 3132].

Harry Hogan
IB74011

NATIONAL DEFENSE AND SECURITY

MLC-059

B-1B BOMBERS: CONTINUED PRODUCTION

...a known quantity...

The FY86 defense budget includes $5,461.8 million to buy the last 48 of the 100-plane B-1B program. Air Force officials say they are sticking to the two bomber program -- 100 B-1Bs by 1988 followed by production of the Advanced Technology Bomber (ATB/Stealth) beginning in 1991. The budget request has no money for the 101st bomber, but many observers doubt that the production line will close with the 100th B-1B. Both House and Senate Armed Services Committees also may have left the door open for more B-1Bs: both reports on the FY86 authorization bill direct DOD to submit an analysis of the Air Force's planned strategic bomber force.

Strong arguments are advanced for and against continued B-1B production. Some concern economics; some concern military considerations. Only a few are mentioned here.

Arguments for continued production.

-- When the last B-1B is built in April 1988, Rockwell International's production line would be abruptly shut down at its peak, which is not the normal pattern. Over 200,000 jobs throughout the United States are at stake, not to mention the effect on Rockwell's earnings and sales.

-- The U.S. budget cannot handle the cost of a two-bomber program -- $28 billion for 100 B-1Bs plus an estimated $45 billion to $79 billion for 132 ATBs -- in view of other high cost defense programs. More B-1Bs, which are needed to replace SAC's aging B-52s, would cost much less than buying ATBs.

-- The B-1B is a known quantity. The ATB, currently a flying wing configuration, could encounter as yet unknown technical difficulties. Extending the B-1B program will allow adequate time to develop ATB (fly before buy).

Arguments against continued production.

-- The economic dislocations of switching from B-1B to ATB may be minimal since the subcontractor network for ATB is not much different than for the B-1B.

-- Like Rockwell International with the B-1B, Northrop Corp., the prime contractor for ATB, has a substantial economic stake in the ATB. Although Stealth is shrouded in secrecy, many observers believe Northrop has made big strides in Stealth development.

-- Continued B-1B production will deprive the ATB program of funds.

-- Stealth is not in competition with the B-1B. The ATB is needed to locate and destroy Soviet mobile ICBM sites. To take full advantage of Stealth technology requires a new aircraft design.

LEGISLATION

P.L. 99-145, H.R. 1872

FY86 DOD Authorization Bill. Introduced Apr. 2, 1985; referred to Committee on Armed Services. Reported May 10, 1985 (H.Rept. 99-81). As passed by House, authorized full funding of Administration's request except R&D reduced to $200 million. Conference report (H.Rept. 99-235, July 29, 1985) approved the full procurement request, restored $100 million for ACM integration, and set R&D funding at $280 million. Directed Secretary of Defense to submit bomber force study by Feb. 1, 1986. Signed (P.L. 99-145) Nov. 8, 1985.

P.L. 99-190, H.J.Res. 465

Appropriates $300 million less than authorized amount: $5.2 billion for procurement, and $280 million for R&D. Signed into law (P.L. 99-190) Dec. 19, 1985. NOTE: Reductions in the amounts appropriated for the B-1B to comply with Gramm-Rudman-Hollings are anticipated.

S. 674 (Goldwater)/S. 1029 (Nunn, by request)/S. 1160 (Goldwater)

FY86 Omnibus Defense Authorization Bill. S. 674 introduced Mar. 18, 1985; referred to Committee on Armed Services. S. 1029, a clean bill, reported Apr. 29, 1985 (S.Rept. 99-41). The Committee approved full funding of the Administration's request: $5,461.8 million for procurement of 48 B-1Bs; $162.2 million for initial spares; $418.9 million for replenishment spares, $367.4 million kR&D, and $122.8 million for procurement associated with integrating the Advanced Cruise Missile with the B-1B. S. 1160, a clean bill, reported May 17, 1985, deleted $122.8 million for ACM integration and deleted $71.5 million from the original military construction request. Passed Senate June 4, 1985.

Dagnija Sterste-Perkins

MLC-060

BINARY CHEMICAL WEAPONS PRODUCTION: ISSUES FOR CONGRESS

...the debate continues...

The United States has not produced chemical munitions since President Nixon declared a unilateral moratorium on their manufacture in 1969. Proponents of the resumption of chemical weapons production believe that the U.S. stockpile dating from 1969 does not provide an adequate retaliatory capability to deter Soviet use of chemical weapons in any future conflict. Representatives of the Department of Defense have testified that 90% of the current chemical agent stockpile is not militarily useful. It is either in bulk storage (the United States has no filling facility) or loaded in obsolete munitions. The remaining 10% is said to suffer from an inappropriate agent/munition mix, with persistent nerve agent only in short range munitions and non-persistent agent in long range munitions.

Furthermore, the Reagan Administration maintains that the inadequacy of the current U.S. stockpile removes any incentive for the Soviet Union to act sincerely in the current multi-lateral chemical arms control negotiations in Geneva.

To correct this situation, DOD seeks to produce 155mm shells carrying non-persistent nerve agent for short range attack, and the Bigeye bomb to deliver persistent agent for long-range interdiction. DOD has chosen to produce "binary" chemical weapons because lethal agent is not formed until the munition is fired or launched, thereby increasing the safety of transportation and storage, and the ease of disarming the munitions in the future.

Opponents of resuming chemical weapons production question the Administration's assessment of the Soviet chemical threat, pointing to the difficulty of assessing the offensive chemical capability of the Soviet Union. They also maintain that, though limited, the current chemical stockpile remains a valid deterrent against Soviet use of chemical weapons. They point out that our NATO allies have not agreed to deployment of binary chemical weapons on their territory. A portion of the current stockpile is now deployed in Europe, and binary opponents believe that the inability to deploy the new chemical weapons would reduce their deterrent value. Critics of the binary program also point to an on-going controversy over the performance of the Bigeye bomb in operational testing. The final objection of the binary production opponents has been that the U.S. resumption of chemical weapons production would have a negative impact upon the prospects of arms control, and the United States would suffer a significant loss of international prestige in breaking its 15-year unilateral moratorium.

In the 99th Congress, the DOD Authorization Act (P.L. 99-145, Sec. 1411) granted the DOD budget request of $207 million for the production of binary weapons, providing a number of conditions were met. FY86 funds are not to be used for procurement or assembly until the President certifies that the United States has developed a contingency plan, in consultation with NATO allies and in cooperation with the Supreme Allied Commander, Europe, to deploy binary munitions. Furthermore, funds may not be used for the final assembly of munitions before Oct. 1, 1987, and then only if the United States has not entered a mutually verifiable international agreement concerning binary and other chemical munitions, and the following Presidential certifications have been received by Congress: (1) final assembly of complete binary munitions is necessary for the security of the United States and NATO; (2) DOD performance specifications for binary munitions have been met; (3) DOD and Federal safety requirements for storage and transportation have been met or exceeded; (4) the Secretary of Defense's plan for the destruction of the existing chemical stockpile is ready for implementation. Final assembly of munitions can not take place until 30 days after receipt of these certifications. In addition, the storage plan for binary munitions must provide that in peacetime the two component parts of the munitions are located in separate States and are transported by separate means in peacetime.

The House and Senate Appropriations Conference Report (H.Rept. 99-450) for the Continuing Resolution H.J.Res. 465 recommended an appropriation of the full DOD request for production of the 155mm chemical projectile ($21.7 million) and the full amount requested for Bigeye bomb production facilities ($98.3 million). Of the $43.6 million requested for the production of the Bigeye bomb, the conferees recommended that only $6 million be appropriated, and that these funds be placed in the Navy RDT&E account to fund further operational testing.

The conference agreement also included a general provision that amends Section 1411 of the DOD Authorization Act, 1986 (P.L. 99-145) to: (1) require the President to certify to Congress that a force goal stating the requirement for modernization of the U.S. share of the NATO chemical deterrent has been submitted to NATO and formally adopted by the alliance; (2) subject obligation of funds for Bigeye components and further operational testing to the requirement that the Secretary of Defense submit a report describing the operational requirements of the Bigeye, its actual performance in operational testing, and any exceptions deemed acceptable; (3) prohibit obligation of funds for the 155mm projectile before October 1986 and then only if the NATO consultation requirements (Sec. 1411(b)) have been satisfied; and (4) prohibit final assembly of the 155mm projectile before Oct. 1, 1987, and then only if the conditions for final assembly (Sec. 1411(c)) have been met.

H.J.Res. 465, as reported from conference, passed the House Dec. 4, 1985, and the Senate Dec. 10, 1985, becoming P.L. 99-190 on Dec. 19, 1985.

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IB85212

MLC-061

DEFENSE BUDGET – FY86: CONGRESSIONAL ACTION TO DATE

...a $10 billion reduction...

President Reagan submitted his FY86 defense budget to Congress on Feb. 4, 1985. For the National Defense Function, the President requested $322.2 billion in budget authority, with outlays estimated at $285.7 billion. For the Department of Defense, the President's request totaled $313.7 billion in budget authority, for an estimated real increase of 5.9% over FY85.

In action on the FY86 defense budget, Congress first approved a concurrent budget resolution on Aug. 1, setting a target of $302.5 billion in budget authority for national defense programs in FY86. The approved level represented 0% real growth over FY85 appropriations. Final congressional action on the FY86 DOD Authorization bill was delayed until Oct. 29 in the House because of dissatisfaction with the authorized level and several provisions dealing with procurement reform, ASAT weapons, and binary chemical weapons. The final level of authorizations was consistent with the target of $302.5 billion established in the budget resolution.

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After considerable delay Congress finally completed action on Dec. 19 on appropriations for the Department of Defense, approving a level of funding consistent with an overall national defense function total of $297.4 billion in new budget authority. Appropriations for programs normally covered in the DOD Appropriation Bill were provided in a continuing resolution, H.J.Res. 465. The approved level of funding is $25 billion less than the Administration's original request, $5 billion less than the level approved in the first budget resolution, and represents real growth of -2%, the first year of negative real growth in the defense budget since FY79.

Major reductions in the FY86 defense budget request include: $1.3 billion by buying 12 MX missiles instead of 48, $2 billion in operation and maintenance programs from lower than expected inflation, fuel costs, and cash surpluses in stock funds, $2.9 billion from DOD's contribution to the retirement of future members of the armed forces, and about $1 billion from the Administration's Strategic Defense Inititative ("Star Wars") program.

Final FY86 appropriations for defense programs will be less than the current level because of reductions required by the newly-enacted Balanced Budget Act (the so-called Gramm-Rudman-Hollings plan) to achieve the legislated deficit target for FY86 of $171.9 billion. Some observers believe that defense outlays in FY86 will have to be reduced by an additional $6 billion to help meet the deficit target. This could equate to a cut in budget authority of $10-13 billion, resulting in a FY86 defense budget 6% smaller than the FY85 level, measured in constant dollars.

LEGISLATION

P.L. 99-145, S. 1160

National Defense Authorization Act for FY86. Authorizes appropriations for the military functions of the Department of Defense and prescribes personnel levels for the Department of Defense for FY86, authorizes certain construction at at military installations for such fiscal year, authorizes appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes. Reported to Senate in lieu of S. 1029 (no report) May 16, 1985, in response to Senate action on the First Concurrent Budget Resolution. Passed by Senate (92-3) on June 5, 1985. Conference report (H.Rept. 99-235) agreed to by the Senate on July 30 by a vote of 94-5. Agreed to by the House by a voice vote in Oct. 29. Signed into law Nov. 8, 1985.

P.L. 99-173, H.R. 3327 (Hefner)

Military Construction Appropriation Bill, 1986. A bill making appropriations for Military Construction for the Department of Defense for the fiscal year ending Sept. 30, 1986, and for other purposes. Reported to House from Committee on Appropriations (H.Rept. 99-275) Sept. 18, 1985. Passed the House on Oct. 17 by a vote of 373-36. Reported as amended, to the Senate by the Committee on Appropriations (S.Rept. 99-168), Oct. 31. Passed the Senate on Nov. 7 by a vote of 94-1. Conference report (H.Rept. 99-380) filed in House Nov. 19. House agreed to conference report Nov. 20. Senate agreed to conference report Nov. 21. Signed into law Dec. 10, 1985.

P.L. 99-190, H.J.Res. 465 (Whitten)

Further Continuing Appropriations, 1986. A joint resolution making further continuing appropriations for FY86. Reported to the House from Committee on Appropriations (H.Rept. 99-403) on Nov. 21. Funding for Department of Defense same as approved in House-passed version of FY86 DOD Appropriation Bill, H.R. 3629. Passed by House (212-208) on Dec. 4. Reported to Senate from Committee on Appropriations Dec. 6. Recommended funding for Department of Defense same as levels in SAC recommended version of FY86 DOD Appropriation Bill. Report (S.Rept. 99-210) filed Dec. 7. Passed Senate by voice vote Dec. 10. Conference report (H.Rept. 99-443) rejected by House (170-239) on Dec. 19. Further conference report (H.Rept. 99-450) agreed to by House (261-137) and Senate (voice vote) on Dec. 19. Signed into law Dec. 19, 1985.

H.Con.Res. 152 (Gray, W.)

First Concurrent Resolution on the Budget for FY86. Revising the congressional budget for the U.S. Government for FY85 and setting for the congressional budget for the U.S. Government for fiscal years 1986, 1987, and 1988. Reported to House by Committee on the Budget May 20, 1985 (H.Rept. 99-133, part 1). Passed by House May 23 by a vote of 258-170. Conference report (H.Rept. 99-249) agreed to on Aug. 1, by a vote of 309-119.

H.R. 1409 (Dellums, by request)

Military Construction Authorization Act for FY86. Authorizes military construction operations for FY86. Introduced Mar. 5, 1985; referred to Committee on Armed Services. Reported to the House on May 16, 1985 (H.Rept. 99-128). Passed by the House on Oct. 16 by a vote of 354-38. S. 1042 subsequently passed containing language of House bill. See S. 1042.

H.R. 1872 (Aspin, by request)

Department of Defense Authorization for FY86. A bill to authorize appropriations for FY86 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. Introduced Apr. 2, 1985. Reported to House by Armed Services Committee (H.Rept. 99-81) May 13, 1985. Passed by House on June 27 by a vote of 278-106. See S. 1160.

H.R. 1873 (Stratton, by request)

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of FY86. A bill to authorize appropriations for the Department of Energy for national security programs for FY86 and FY87, and for other purposes. Introduced Apr. 2, 1985. Provisions incorporated in H.R. 1872.

H.R. 3629 (Addabbo)
Department of Defense Appropriation Bill, 1986. A bill making appropriations for the Department of Defense for the fiscal year ending Sept. 30, 1986, and for other purposes. Reported to House from Committee on Appropriations Oct. 24 (H.Rept. 99-332). Passed House Oct. 30 by a vote of 359-67. Reported to the Senate with amendments by the Committee on Appropriations Nov. 6. See H.J.Res. 465.

S. 537 (Thurmond, by request)
Military Construction Authorization Act for FY86. Authorizes military construction operations for FY86. Introduced Feb. 28, 1985; ordered to be reported with amendments Apr. 4 by Committee on Armed Services. Provision of measure incorporated into S. 1029.

S. 674 (Goldwater, by request)
Department of Defense Authorization for FY86. A bill to authorize appropriations for FY86 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year, and for other purposes. Provisions of measure incorporated into S. 1029 on Apr. 4, 1985.

S. 911 (Warner, by request)
Department of Energy National Security and Military Applications of Nuclear Energy Authorization. A bill to authorize appropriations for the Department of Energy for national security programs for FY86 and FY87, and for other purposes. Introduced Apr. 16, 1985; referred to Committee on Armed Services. Provisions incorporated in S. 1029.

S. 1029 (Goldwater)
National Defense Authorization Act for FY86. Authorizes appropriations for the military functions of the Department of Defense and proscribes personnel levels for FY86, authorizes certain construction at military installations for such fiscal year, authorizes appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes. Reported to Senate by Committee on Armed Services (S.Rept. 99-41) Apr. 29, 1985. Clean bill (S. 1160) reported in lieu (see below).

S.Con.Res. 32
First Concurrent Resolution of the Budget for FY86. An original concurrent resolution setting forth the congressional budget for the U.S. Government for FY86 through FY88, and revising the congressional budget for the U.S. Government for FY85. Reported to Senate by Committee on the Budget Mar. 20, 1985 (S.Rept. 99-15). Passed Senate May 10, 1985. Conference report (H.Rept. 99-249) agreed to on August 1 by a voice vote of 67-32.

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IB85021

MLC-062

FIGHTER AIRCRAFT COMPETITION: F-16 VS. F-20

...In quest of a cheaper fighter...

During 1985 there was some congressional interest in Northrop's F-20 fighter aircraft as an alternative to some of the F-16 fighters the Air Force plans to buy from General Dynamics. The conference report on the FY86 defense authorization bill (S. 1160) directed the Air Force to "establish during FY86 a competition for the procurment of fighter aircraft," which would involve the F-16 and the F-20. In August 1985, Defense Department officials directed the Air Force to conduct a winner-take-all competition between F-16 and F-20 versions. Some 300 of the winning aircraft would be procured over a 5-year period for continental air defense.

The F-16 and the F-20 are single-seat, single-engine, supersonic fighters, armed with 20 mm guns and air-intercept missiles as well as air-to-surface ordnance. Both planes are air combat fighters that can also be used in attack and close-air-support roles. The F-16 has greater range and payload capabilities, depending on mission and operating conditions. However, the F-20 can take off more rapidly and is expected to be easier to operate and maintain. Which of these aircraft would be cheaper for USAF to buy and operate is at issue.

The F-20 was developed for export to allies seeking aircraft less capable but more maintainable than high-performance U.S. fighters. However, foreign governments have insisted on buying aircraft in the U.S. inventory, such as the F-16, which has the prestige and pragmatic values of operational service with U.S., NATO, and Israeli air forces. Consequently, no foreign government has bought the F-20, which Northrop developed at corporate expense and has actively marketed since 1980 through the fighter export (FX) program.

In contrast to the F-16 (1,474 of which were delivered to U.S. and allied air forces by 1986), only three demonstration versions of the F-20 have been built. These prototypes have been tested and demonstrated since 1982, but the first two were lost in crashes (South Korea, Oct. 10, 1984; Labrador, May 14, 1985). Two aircraft with more engine thrust, internal fuel, wing area, and other improvements are reportedly under construction in what Northrop terms a "full production configuration." According to Northrop, production would begin if there were a U.S. Air Force order in FY86 for about 180 aircraft in a multi-year program, with an opportunity for the F-20 to compete against the F-16 for other orders. Northrop believes that such a commitment by USAF would generate enough foreign sales to warrant production.

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In April 1985, Northrop offered the Air Force 396 F-20s at $15.9 million (FY86-FY89$) per aircraft. In June 1985, General Dynamics made a counter offer to produce a less capable F-16C version at a unit price of $13 million in terms comparable to the F-20's $15.9 million price. By contrast, each of the 180 F-16Cs requested by the Administration in FY86 costs over $20 million (FY86$), counting various program costs that are not included in these F-20 and F-16 proposals. The unit procurement costs of these aircraft was estimated by the Congressional Budget Office in constant FY85 dollars as follows: $15.6 million for each standard F-16C; $12.8 million for each F-20; and $10.9 million for each specially-configured F-16C.

Arguments for and against USAF procurement of the F-20 include the following:

For the F-20

-- The F-20 should be procured as the only potential rival of the General Dynamics F-16, thus providing competitive pressure to reduce the price of the F-16.

-- The Air Force cannot afford the high-cost capabilities of the F-16C and its inventory objectives could be better met by procuring the smaller, less sophisticated, and more reliable F-20.

-- USAF procurement of the F-20 would encourage foreign purchases of an American plane that would be more suitable to the needs of some of our allies than the F-16.

Against the F-20

-- The F-20 is not a competitor to the F-16, since it is inferior to the F-16 in such relevant mission capabilities as range and payload and the actual costs of procuring and operating the F-20 as a USAF system are unknown.

-- F-20 prototypes have not been fully tested to Air Force standards and combat requirements, and the versions tested are significantly different from the version to be produced.

-- The F-20 would introduce another type to USAF's current mix of six tactical aircraft and would require separate training and logistical systems.

LEGISLATION

S. 1160 (Goldwater)/H.R. 1872 (Aspin)

FY86 defense authorization bill. Passed by the Senate June 5 and by the House, June 27, 1985. Conference report, agreed to by the Senate July 30, 1985 and by the House Oct. 29, 1985. Authorizes procurement of 180 F-16s and contains language directing the Air Force to begin competitive procurement of fighter aircraft, which modifies a similar provision in the House bill. The House Armed Services Committee recommended "an ongoing tactical fighter aircraft procurement competition beginning in FY86 ... among the F-16, F-20 and other suitable aircraft." In a related action, the Committee recommended an FY86 buy of 150 F-16s versus the 180 requested; however, the Committee did not direct the Air Force to procure any specific number of F-20s. The Senate Armed Services Committee recommended an FY86 buy of 180 F-16s as requested, with no discussion of the F-20 as an alternative.

Bert Cooper

MLC-063

INTERNATIONAL TERRORISM

...the priority concern...

Events in 1985 confirm the fact that Americans are prime targets of terrorist violence. These included the June hijacking of TWA flight 847 with hostages and the Achille Lauro seizure. At least four American hostages are being held in Beirut. In November 1985 an Egyptian attempt to storm a hijacked airliner on the ground in Malta resulted in 60 persons killed, the greatest number of casualties in any hijacking incident. Shortly after taking office, President Reagan stated that U.S. policy toward international terrorism would be one of swift and effective retribution, but the latest hostage taking has illustrated how difficult it is to put that policy into practice. Former Secretary of State Alexander Haig, Jr., declared that while human rights were still a fundamental interest of the United States, international terrorism would replace them as the priority concern of American foreign policy since terrorism was the ultimate abuse of human rights. The former Secretary was among those who placed major responsibility on the Soviet Union for training, funding, and equipping terrorists.

The principal vehicle for coordinating anti-terrorist policies and programs is the Interdepartmental Group on Terrorism. It is chaired by the head of the State Department's Office of Counter-Terrorism and Emergency Planning, and contains representatives of the Department of Justice, the FBI, the Department of Defense and Joint Chiefs of Staff, the Energy, Treasury and Transportation Departments, the CIA, the National Security Council, and the Office of the Vice President. Overseas terrorist incidents are managed by a task force convened by the State Department under the direction of the Office of Counter-Terrorism and Emergency Planning. Domestic terrorist incidents are the responsibility of the Justice Department and the FBI.

The Administration's activities in this field focused on enhancing embassy security, developing contingency planning and incident management techniques, giving additional training on coping with violence overseas for all State Department, Agency for International Development, and United States Information Agency personnel assigned abroad, plus supporting various international initiatives designed to combat terrorism. Following the bombing of the Embassy Annex in Lebanon on Sept. 20, 1984, the Administration requested $366.3 million for a 5-year program for increased security for U.S. diplomatic missions overseas. This was in addition to the security enhancement program already underway. Over $110 million of this amount has already been appropriated. Now the State Department has decided on a program of embassy and consulate replacement and renovation, in response to the recommendations of its Advisory Panel on Overseas Security. If this projected 7-year program is adopted, it is estimated that it will cost $3.5 billion.

The Pentagon established a Joint Special Operations Agency with the responsibility for training and exercising the special forces groups currently maintained by each of the armed services. The establishment of the JSOA presumably meant the upgrading of the status of special forces within the DOD's crisis and war planning machinery.

A new anti-terrorist policy was approved by President Reagan in 1984. Although details were not released, subsequent statements by Secretary Shultz implied that this policy might include preemptive strikes or retaliatory action. It was also indicated that there might be more cooperation with other nations and more sharing of intelligence. Congressional action after the hijacking of TWA Flight 847 suggests that greater airport safety is now a priority concern.

LEGISLATION

P.L. 99-83, S. 690

International Security and Development Cooperation Act of 1985. Contains an entire title devoted to international terrorism and airport security. First it authorizes appropriations for anti-terrorist assistance of $9,840,000 for fiscal year 1986, plus the same amount for fiscal 1987. It also permits the transfer of certain small arms ammunition and protective equipment to countries fighting terrorism. The total value of these commodities may not exceed $325,000 for fiscal year 1986, and the same amount is permitted for fiscal 1987. The Secretary of State is made responsible for coordinating all anti-terrorist assistance to foreign countries provided by the U.S. Government. The Secretary is to report to Congress by February 1 of each year on the anti-terrorism assistance provided during the previous fiscal year. These reports may be classified to the extent necessary. The act further provides that no U.S. assistance under it, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act or the Arms Export Control Act, shall go to any country that the President determines grants sanctuary to individuals or groups who have committed acts of terrorism, or which otherwise support international terrorism. This section may be waived if the President determines that national security or humanitarian considerations justify a waiver. The House Foreign Affairs Committee and the Senate Foreign Relations Committee are to be notified in the event of any such waiver. If sanctions are imposed on a particular country under this act, the President is to call on other countries to take similar action. The law also provides that the President may prohibit imports from Libya, and that he may prohibit exports of goods, technology, technical data, or other information to that country. It also provides a more generalized ban of imports of goods and services from any country supporting terrorism or terrorist organizations, or harboring terrorists or terrorist organizations. The President is to consult with Congress whenever possible before exercising this authority, and to continue such consultation while the authority is being exercised. In addition, the President is to transmit a report to Congress specifiying the country from which imports as banned, and listing such imports, the circumstances necessitating his action, why he believes those circumstances justify the exercise of the authority provided, and why he believes these prohibitions to be necessary. Subsequent reports detailing actions taken are to be made at least once every six months. Congress also calls on the President to seek the establishment of an International Anti-Terrorist Committee, consisting of members of NATO and Japan and such other countries as may be invited and choose to participate. This proposed committee is to serve as a forum at both the political and law enforcement levels. Congress expresses its sense that those democratic and open societies most plagued by terrorism should negotiate a treaty to prevent and respond to terrorist attacks. That treaty should incorporate an operative definition of terrorism, and should establish effective close intelligence-sharing, joint counter-terrorist training, and uniform laws on asylum, extradition, and swift punishment for terrorists. Parties to such a treaty should not be limited to those democratic members most victimized by terrorism. A final provision expresses the sense of Congress that all civilized nations should condemn the increasing use of terrorism by certain states as an official instrument for promoting their policy goals. It cites the example of the murder of Major Arthur D. Nicholson, Jr., by a member of the Soviet armed forces.

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MLC-064

MX, "MIDGETMAN," MINUTEMAN, AND TITAN MISSILE PROGRAMS

...a key decision on Midgetman...

The Midgetman small intercontinental ballistic missile will be controversial in 1986. It is scheduled to begin full-scale development (FSD), the last stage of R&D before procurement, in late 1986. A decision to proceed would be a crucial step: it would lock in many aspects of the system including missile characteristics and basing mode, would imply a deployment decision later, and would require substantially higher appropriations. A FSD decision would lead Congress to debate Midgetman's survivability and cost-effectiveness.

Yet in November 1985, the Administration proposed to the Soviets a ban on mobile ICBMs, reportedly out of concern that (1) these missiles would be hard to verify, (2) the Soviets have started to deploy them seven years ahead of Midgetman, and (3) Congress may not continue to support Midgetman in view of its high cost. While Midgetman could still be based in silos, this proposal would, if accepted, prevent its deployment in hard mobile launchers, the preferred basing mode.

The Administration will apparently request FY87 funding to begin Midgetman FSD. But if the Administration later decides to terminate or slow the Midgetman program, it would violate an agreement reached with congressional moderates in May 1983 to support Midgetman in exchange for their support of MX, possibly leading to congressional retaliation.

MX, in contrast, seems headed for its quietest year since 1978. The FY86 defense authorization bill resolved many issues that would otherwise be contentious in debate on the FY87 budget. The FY86 bill provided that at most 50 MX missiles shall be deployed in existing Minuteman silos, additional MX missiles shall be procured only for testing, 12 to 21 missiles "should" be procured in FY87, and more than 50 missiles may be deployed if "a basing mode other than existing Minuteman silos is specifically authorized by legislation." In 1986, deployment will not be at issue, as Defense Secretary Weinberger promised not to seek FY87 funds to deploy additional MX missiles. Procurement will not be at issue, as Weinberger indicated that the FY87 request would certain funds for 21 missiles, within the bounds of the legislation. Even R&D, which has been less controversial than deployment, will be of declining significance to Congress: the projected FY87 MX R&D request is $361 million, down from roughly $2 billion in FY84, $1.7 billion in FY85, and $600 million in FY86.

LEGISLATION

P.L. 99-190, H.J.Res. 465

Further continuing appropriations for FY86. This measure includes FY86 defense appropriations, and was considered in lieu of H.R. 3629. Reported to House (H.Rept. 99-403) by House Appropriations Committee Nov. 21, 1985. Passed House, amended, 212-208, Dec. 4. Reported to Senate by Senate Appropriations Committee Dec. 5; report (S.Rept. 99-210) filed Dec. 6. Conference report (H.Rept. 99-443) filed in House Dec. 16. Revised conference report (H.Rept. 99-450) filed in House Dec. 19. The conference report contained the figures authorized for MX R&D ($734.1 million), MX procurement ($1,746 million), and deep basing R&D ($20 million). It eliminated the $100 million added to small ICBM R&D in the authorization act, leaving the requested amount, $624.5 million, and increased hard silo R&D funds to $102.2 million from $70 million authorized. On Dec. 19, the House agreed to the conference report (261-137), the Senate agreed to it, and it was signed into law. The Congressional Budget Office/Office of Management and Budget report on Jan. 15, 1986 (required by the Gramm-Rudman-Hollings deficit reduction process), if implemented, would cancel (sequester) $123.4 million in available funds for MX procurement, which would reduce FY86 outlays $29.3 million. The report also would cancel $89.6 million in available funds for ICBM modernization R&D, reducing FY86 outlays $43.8 million. The report does not indicate a specific amount for MX. The conference bill was reported (H.Rept. 99-235, S.Rept. 99-118) on July 29, 1985. It provided $1,861 million to procure 12 missiles and related equipment, reduced MX R&D by $50 million, and added $100 million for R&D on the small ICBM and hard mobile launcher. It permanently limited the deployment of MX missiles in Minuteman silos to 50. Regarding the small ICBM, conferees directed the Secretary of Defense to provide, by Oct. 1, 1985, a report addressing design tradeoffs and issues raised by the July 1985 GAO report on ICBM modernization. Conferees directed an independent review of the small ICBM and basing options be conducted by the Defense Science Board, due before submission of the FY87 defense budget. The conference bill required a legislative environmental impact statement to be completed prior to site selection or start of full-scale development of the small ICBM. Conference bill passed Senate, 94-5, on July 30, and passed House, by voice vote, Oct. 29. Measure signed into law (P.L. 99-145) Nov. 8, 1985.

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MLC-065

THE SEAWOLF OR SSN-21 CLASS ATTACK SUBMARINE

...the submarine for the 21st Century...

The Seawolf or SSN-21 class submarine -- the "nuclear-powered attack submarine (SSN) for the 21st Century" -- is the Navy's proposed successor to the current Los Angeles (SSN-688) class SSN design, which has been in production since 1970. About $450 million in advanced procurement funding for the first SSN-21 submarine is to be requested for the FY87 authorization and appropriation.

The Navy's rationale for the SSN-21, briefly put, is as follows: In a general war with the Soviet Union, the primary mission of U.S. SSNs would be to destroy, disable, or tie down Soviet submarines. U.S. SSNs are greatly outnumbered by Soviet submarines, and must therefore be qualitatively superior. In the last few years, the Soviets have narrowed the qualitative gap by introducing several new classes of submarines with greatly improved capabilities. In response, the United States has improved the capabilities of the Los Angeles class design. These improvements, however, have exhausted the growth potential of the Los Angeles class design; there is no more space and weight for additional improvements. Soviet submarines will continue to improve and, by 1995, are expected to be a match for the improved Los Angeles class design. To maintain its qualitative edge, the United States therefore requires a completely new SSN design, namely, the SSN-21, which is to go to sea in 1995.

The SSN-21 would be slightly shorter than the SSN-688, but a good deal wider. As a result, it will have a submerged displacement of 9,150 tons, or about one-third more than the SSN-688. Compared to the improved SSN-688, the SSN-21 is designed to be quieter, faster, deeper diving, better armed, and and capable of under-ice operations. It would be equipped with the submarine advanced combat system (SUBACS), now in development.

In constant FY85 dollars, the first SSN-21 is to cost $1.6 billion; the fifth and following boats are to cost $1.0 billion each. These figures will be much higher when translated into current (or then-year) dollars. Full funding for the first boat is planned for the FY89 authorization and appropriation, but Congress faces a critical choice this year on the $450 million in advanced procurement requested for FY87. Approving this $450 million "down payment" on the first boat will create an incentive to approve the remainder of the funding for the first boat in FY89. Funding the first boat, in turn, will create an incentive to approve further boats in the class. The $450 million in advanced procurement funding will also pay for detailed design work that will finalize the submarine's design and thus make its size and cost relatively immutable. For both these reasons, Congress' decision this year on the $450 million in advanced procurement funding for the first SSN-21 will have a significant effect on the fate of the entire SSN-21 program. Congress' potential to affect the program in future years may not be as great.

The SUBACS research and development program last year experienced significant cost, schedule, and performance problems. In light of these problems, there were suggestions that the SSN-21 program should be deferred for one or two years, to ensure that SUBACS would be ready for the submarine. In response, the Navy restructured the SUBACS program and now says it will meet its cost, schedule and performance goals. Some in Congress, however, still express concern about the program.

Ronald O'Rourke

MLC-066

TRIDENT PROGRAM

...most survivable U.S. deterrent force...

Nuclear-powered ballistic missile firing submarines (SSBNs) are generally seen as the least vulnerable U.S. strategic offensive weapon system. Accordingly, they are believed to reduce any incentive for the United States or the U.S.S.R. to launch a nuclear first strike.

The FY86 Trident program includes authorization of 17 Trident submarines through FY89, with procurement of 20 submarines a possibility; bases for them in Bangor, Washington, and Kings Bay, Georgia; deployment of Trident I missiles and associated warheads; and development and deployment of the Trident II missile and associated warheads. In addition, Trident I missiles have been backfitted into 12 Poseidon SSBNs.

The submarine will replace Polaris and Poseidon SSBNs, which were first commissioned in 1959 and 1963, respectively. Compared to these earlier boats, Tridents are much larger, travel faster, run quieter, and stay at sea longer. Each will carry 24 Trident I missiles of about 4,000 nm range at full payload instead of 16 missiles of 2,500 nm range at full payload. Increased missile range will make SSBNs far harder to find by increasing tenfold the ocean area in which they can operate. The President's strategic program, announced Oct. 2, 1981, calls for developing the Trident II (D-5), i.e., the largest missile that can fit in Trident submarine launch tubes, and deploying it starting in 1989. Compared with Trident I, the Trident II is to have about the same range, about 75% more payload, and much improved accuracy. Both Trident I and II will carry multiple independently targetable reentry vehicles, enabling one missile to attack several targets, and could carry maneuvering reentry vehicles.

The United States will sell Trident II missiles to Britain, which will build four new SSBNs to replace its current fleet of four Polaris-armed SSBNs.

The Defense Department estimates Trident program costs at $16.943 billion for the first eight Trident submarines, associated Trident I missiles, and the base at Bangor, Washington; $16.097 billion for the next nine Trident submarines (which are to be first deployed with Trident II missiles) and the base at Kings Bay, Georgia; $38.121 billion for development of the Trident II and enough missiles and spares for 17 submarines; and $3.573 billion for backfitting twelve Poseidon submarines with Trident I missiles. The Administration requested $4.70 billion for the Trident program for FY86.

The Trident II missile is the most controversial aspect of the Trident program. It is designed to be accurate enough to threaten Soviet silo-based ICBMs. Supporters see it as needed to offset the Soviet advantage in counter-ICBM capability, to deny Soviet war aims if war occurs, and to compel the Soviets to divert funds from threatening U.S. forces to protecting their own. Critics argue that the missile harms U.S. security because its ability to destroy Soviet ICBM silos could force the Soviets to prepare to launch their ICBMs on warning of attack, in which case human, computer, or radar error could lead to nuclear war. Other once-controversial aspects of the Trident program are now less so. In particular, shipbuilding problems seem resolved.

LEGISLATION

P.L. 99-145, S. 1160
National defense authorization act, FY86. S. 674 introduced Mar. 18, 1985; referred to Committee on Armed Services. S. 1029 reported in lieu (S.Rept. 99-41) Apr. 29, 1985. The committee recommended reducing Trident I procurement by $20 million, Trident I R&D by $15 million, Trident submarine construction funding by $75 million, and Trident submarine related R&D by $15 million, citing fiscal constraints. It left Trident II R&D and procurement requests unchanged.

P.L. 99-190, H.J.Res. 465
Further continuing appropriations for FY86. This measure includes FY86 defense appropriations, and was considered in lieu of H.R. 3629. Reported to House (H.Rept. 99-403) by House Appropriations Committee Nov. 21, 1985. Passed House, amended, 212-208, Dec. 4. Reported to Senate by Senate Appropriations Committee Dec. 5; report (S.Rept. 99-210) filed Dec. 6. Conference report (H.Rept. 99-443) filed in House Dec. 16. Revised conference report (H.Rept. 99-450) filed in House Dec. 19. The conferees recommended $1,354.7 million for Trident submarine construction, $582.0 million for Trident II procurement, $36.2 million for Trident I procurement, and $2,117.1 million for Trident II R&D. On Dec. 19, the House and Senate agreed to the conference report and it was signed into law. (Note: The funds appropriated for the Trident program may be subject to reduction as a result of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, commonly known as the Gramm-Rudman-Hollings Act.)

H.R. 1872 (Aspin/Dickinson, by request)
FY86 DOD authorization bill. Introduced Apr. 2, 1985; referred to Committee on Armed Services. Reported (H.Rept. 99-81) May 10, 1985. The committee recommended leaving the request for Trident II R&D and Trident submarine construction funds unchanged, and reducing the request for Trident I procurement by $10 million, Trident I R&D by $17.2 million, and Trident II R&D by $65.6 million. On June 19, the House rejected, 342-79 an amendment by Representative Weiss to delete all Trident II procurement funds. Passed House, amended, 278-106, June 27. Measure tabled in House, and S. 1160 passed in lieu, June 27.

H.R. 3629 (Addabbo)
FY86 DOD appropriation bill. Reported from House Appropriations Committee (H.Rept. 99-332) Oct. 24, 1985. The committee recommended (1) reducing Trident submarine construction funds from $1,283.6 million requested to $1,190.6 million (including $373.9 million transferred from prior year unobligated Trident submarine funds) to reflect favorable contract negotiations, lower than anticipated inflation, and disapproval of a reprogramming; (2) fully funding Trident II procurement as requested ($312.7 million plus $269.3 million for advance procurement); (3) reducing Trident I procurement from $66.2 million requested to $36.2 million; and (4) reducing Trident II R&D from $2,165.6 million requested to $2,103.6 million to allocate to FY86, the peak year of Trident II R&D funding, more of the $542 million in savings realized from contract negotiations. Measure passed House, amended, 359-67, on Oct. 30. Trident portions were not amended. Measure referred to Senate Appropriations Committee Nov. 1, and reported from that committee (S.Rept. 99-176) Nov. 6.

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IB73001

MLC-067

U.S. DEFENSE PROCUREMENT REFORM: MAJOR CONGRESSIONAL INITIATIVES

...alleged waste, fraud, and inefficiency...

The high degree of the Congress' involvement is a feature that distinquishes the most recent procurement reform campaign from past efforts. A number of factors have contributed to the greater prominence of its role, the most notable probably being (in addition to record levels of defense spending) strong competing demand for limited federal funds from non-defense programs with a high political interest profile. Many Members inclined to support DOD feel the need to respond to public concern over waste, fraud, and inefficiency in defense programs. There is little evidence to suggest that this high level of congressional involvement and interest in procurement reform will diminish during President Reagan's second term, given his Administration's continued commitment to substantial real growth in defense spending.

A significant trend in congressional action over the past five years has been increasing interest in major structural change in the procurement system. During 1981-1982, substantial effort was directed at expanding and upgrading cost reporting requirements for major weapon systems and fostering greater efficiency and reduced costs through what were essentially procedural changes (these, as well as other actions mentioned below, are discussed later in greater detail). More recently, however, the Congress has supported actions that seem to reflect decreasing confidence in the basic procurement structure.

For example, in late 1982, the Congress passed a law requiring the Defense Department to establish a new Inspector General's office and, in 1983, the Congress set up an independent operational testing and evaluation office. Under prodding from Capitol Hill, "competition advocates" have been appointed to the buying commands in each of the three major services (Army, Navy, and Air Force). Initiative has been taken to make the cost estimating process more accurate by establishing, in addition to the existing OSD-level Cost Analysis Improvement Group (CAIG), a new level of independent review at the individual service levels. More radical are challenges to the longstanding tradition of having individual services manage procurement of major systems. In its place is proposed a more centralized procurement organization, the most extreme alternative being an independent, civilian-operated DOD procurement agency.

The emerging support for structural change on Capitol Hill reflects growing impatience with a procurement system in which controlling costs tends, according to some observers, to be the least important of three factors that shape the procurement decisionmaking process -- the other two being (1) fulfilment of performance requirements, and (2) timely delivery. Wholesale revamping of the procurement system may not be politically feasible at this time. Thus, a piecemeal approach to structural reform has evolved for changing the DOD procurement system.

However, there are questions as to the ultimate benefits to be derived from adding layers of staff to existing ones without defeating the very purpose for which they were put in place. The adding of "independent" cost-control and efficiency staff at various levels and stages of decisionmaking may entail a substantial additional cost not only in terms of increased personnel and overhead expenses, but also in terms of program delays that can be anticipated as a result of such action.

LEGISLATION

P.L. 99-190, H.J.Res. 465

Further Continuing Appropriations for FY86. Summary of procurement reform provisions as reported by the Committee of Conference on Dec. 19, 1985. Signed by the President Dec. 19, 1985 (P.L. 99-190).

David E. Lockwood
IB85103

NATURAL RESOURCES

MLC-068

NATURAL RESOURCES: OVERVIEW, PUBLIC LANDS, NATIONAL FORESTS, AND PARKS AND RECREATION

...increased emphasis on revenue potential...

OVERVIEW

The Federal Government owns nearly one-third of the land in the United States -- about 719 million acres. The major land management agencies are the Bureau of Land Management (in the Interior Department) -- 340 million acres; National Park Service (Interior) -- 81.5 million acres; Fish and Wildlife Service (Interior) -- 88.9 million acres; and U.S. Forest Service (Agriculture) -- 191 million acres. A large proportion of federally owned land is in Alaska -- 226 million acres -- and most of the rest is in the eleven Western States

Revenues produced are much larger than the budget outlays for major natural resource programs. The Department of the Interior's revenues, for example, are estimated at just over $10 billion for FY86 ($8.2 billion from leasing on the Outer Continental Shelf), while its budget request for FY86 was $4.8 billion. The management of this vast amount of land with its large potential to generate revenue has involved diverse and sometimes conflicting resource management goals. The preservation of wilderness land, for example, can conflict with multiple use land objectives and the production of energy, mineral, or timber resources.

The change in Administration in 1981 evoked a change in general departmental policy, focused around three major concepts: (1) increasing production and economic utilization of the Federal resources, reflected in moves to accelerate Federal energy leasing, both on land and on the Outer Continental Shelf (OCS), and in policy statements on high priorities for energy development on public lands. (2) improving the economy through cutting the level of Federal spending. In the natural resources area, this has meant close scrutiny, lower priority, and reduced funding for such programs as environmental impact studies, funding for park land acquisition, recreation and historic preservation, and selected water development projects. Cutbacks have been proposed in numerous agencies that administer resource management programs. (3) coordinating, and to some extent consolidating, the management of natural resources. A Cabinet Council on Natural Resources and the Environment was established, with the Secre-

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tary of the Interior as its chairman pro tem (the President is the official chairman of the Council). This Council, composed of the appropriate department and agency heads, considers and decides issues of broad policy on natural resources and the environment.

Under provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177, otherwise referred to as the Gramm-Rudman-Hollings Act), a 4.3% reduction of almost all FY86 Federal appropriations for natural resource programs will occur unless Congress provides otherwise prior to Mar. 1, 1986.

PUBLIC LANDS

The 340 million acres managed by the Bureau of Land Management (BLM) are located primarily in the 11 contiguous Western States (where the average Federal ownership figure is 52% of the land) and in Alaska. The management of these lands and associated resources on them involves a number of controversial issues.

BLM Budget. The FY86 budget for the Bureau of Land Management is $574 million, a decrease of $110.5 million (19.3%) from the FY85 appropriation. The largest decrease is in fire control, specifically fire fighting and presuppression, from $118.5 million in FY85 to $3.5 million in FY86. There are additional small reductions in most of the renewable resources programs and land acquisitions, and increases in energy and minerals management, the payment in lieu of taxes program, general administration, technical services, planning, and recreation management.

The FY86 appropriations bill, H.R. 3011, as reported by the House Appropriations Committee, increased the BLM budget to $567 million, $80 million more than requested but $9 million less than FY85. The increase over the budget request is due primarily to the return of the Oregon and California Grant Lands (O&C) funds to the BLM budget and to the disapproval of the proposed Federal pay cut.

Grazing and Rangeland Management. Several rangeland management issues remain before the second session of the 99th Congress. Dec. 31, 1985, was the deadline for three statutory provisions relating to range management: 1) authorization in the Public Rangelands Improvement Act (PRIA) of the formula that sets the fee charged for grazing livestock on most Federal lands; 2) completion of two reports to Congress required by PRIA that give recommendations for future grazing fees and describe the results of an experimental stewardship program; and 3) authorization of grazing advisory boards in the Federal Lands Policy and Management Act (FLPMA). None of these deadlines was met by the Administration, nor did Congress enact any related legislation.

These rangeland management issues affect grazing policy on lands managed by both the Bureau of Land Management and the Forest Service. The issues are inter-related, not only with each other, but with other issues as well; actions dealing with one authority could influence actions on another or related issue. Congressional review and/or legislation relating to the three deadlines will likely raise questions regarding other range management programs: range improvement funding, wild horses and burros, the FLPMA planning process, and management of riparian areas associated with rangelands. (See also IB85032 -- Rangeland Management Issues in the 99th Congress and IB85138 -- Wild Horses and Burros: Federal Management Issues.)

On Mar. 28, 1985, the two agencies released the draft 1985 Grazing Fee Review and Evaluation for public review and comment. The current fee formula is evaluated, and five alternative fee systems are described, although no recommendation is given. The final report is scheduled to be delivered to Congress early in 1986.

Energy Resources on Public Lands. Onshore energy resources on Federal lands are estimated by the U.S. Geological Survey (USGS) as follows for undiscovered resources: 35% of crude oil is on Federal lands; 30% of natural gas; 80% of shale oil; 40% of coal; 50% of uranium; and 50% of geothermal. All leasing in wilderness areas expired Dec. 31, 1983, by specific provisions of the Wilderness Act.

Roughly 186 million acres are in parks, wildlife refuges and wilderness areas (designated or under study) and thus currently unavailable for energy development. Other reasons for withdrawal of Federal land from leasing include military uses, national petroleum reserves, irrigation projects, native selections, and others. A total of about half of the Federal lands are withdrawn for a wide variety of reasons.

Coal. One-third of the Nation's coal reserves are federally owned, including 60% of Western coal. About 100 billion tons are considered recoverable reserves. Coal leasing on Federal lands received considerable attention in the 98th Congress, with concern centering especially on whether fair market value was received in coal lease sales.

Federal coal leasing on public lands was rapidly accelerated during the first term of the current Administration. Controversy has centered on whether the Government has sought and/or obtained appropriate fair market value for leases recently issued. Also at issue is whether new leasing is appropriate at presently proposed rates, first because such large amounts of coal are already under lease, and also because of the relatively depressed market.

New lease sales have been criticized as unwise and unneeded, given the amounts already leased and projections of persisting chronic overcapacity and because "overleasing" deprives the public of fair return value on public resources by driving down bonus bids. Proponents argue that existing leases may not be economically or environmentally suitable for mining, and that "overleasing" promotes competition, assures mining of "least cost coal," eliminates pent-up demand for reserves, and creates an inventory of uncommitted leased reserves in private hands that could be developed quickly if demand increases suddenly. (See also archived IB83058 -- Leasing of Energy Resources on Public Lands and IB83111 -- Coal Leasing Policy.)

Oil and Gas. After controversy during 1984 over its oil and gas leasing procedures, the Interior Department is reviewing the noncompetitive, simultaneous oil and gas leasing system (SIMO), otherwise called the lottery system. Many interests want to make the entire onshore leasing system competitive to increase returns to the Treasury and reduce cheating. This would mean elimination of the SIMO programs. Industry interests prefer to retain the present system, which allows for both competitive and non-competitive types of leasing. (See also IB85174 -- Onshore Oil and Gas Resources on Federal Lands: Current Issues in the Non-competitive Leasing System.)

NATIONAL FORESTS

Most forestry issues in Congress involve Federal forests and the agency that manages the majority of them: the Forest Service in the Department of Agriculture (USDA), which manages 191 million acres of land, primarily in the West.

Forest Service Budget. The FY86 budget for the Forest Service (excluding permanent appropriations) is $1,488 million. This is $103 million (7.4%) above the FY85 appropriation, but the FY85 budget included $226 million in appropriated but unused purchaser road credits. Thus, the FY86 Forest Service budget is, in fact, $124 million (7.7%) below the FY85 level.

The Forest Service Research budget is $126 million, $4 million (3.2%) above the FY85 appropriation. The State and Private Forestry System (S&PF) budget is $58 million, less than $1 million (1.1%) below the FY85 budget. The FY86 budget for the National Forest System (NFS) is $1,048 million, down $63 million (5.7%) from FY85; timber sale program funding is down $12 million (6.1%) from FY85, but the sale level is up from 11.2 BBF to 11.4 BBF. Forest Service land acquisition in FY86 is at $28 million, down $22 million from FY85 (44.3%), but $26 million more than the Administration had requested.

Forest Service road construction funding was particularly controversial. In FY85, road appropriations totaled $230 million. The Administration's budget request was only $196 million, down $34 million (14.9%). The House reduced the road budget construction even further, to $151 million, but the Senate Appropriations Committee returned the road budget to the requested level. The FY86 budget, as enacted, sets road appropriations at $188 million, $42 million (18.1%) below FY85 and $7 million (3.8%) below the Administration's request. (See also IB85192 -- Forest Service Road Construction: Proposed Funding Cuts.)

Timber Sales Below Cost. Numerous recent studies showed that the Forest Service consistently lost money on many timber sales when Federal costs and revenues were compared. The Forest Service argues that the multiple-use benefits of timber sales outweigh the financial losses. To address this issue, the Forest Service was appropriated $400,000 to develop a timber sale cost accounting system; this system is expected to be developed and implemented by early 1986. The House Agriculture and Interior Committees each held 2 days of hearings on the sales-below-cost issue in early June. The accounting system study and the issue of below-cost timber sales will likely be further explored by both the Appropriations Committees and the Authorizing Committees.

Exchange of BLM and Forest Service Lands. One major Administration initiative is a proposed exchange of BLM and Forest Service lands. Approximately 18 million acres managed by the BLM, including the heavily timbered O&C lands, would be transferred to the Forest Service, while about 16 million acres from the National Forest System, including many of the national grasslands, would be transferred to BLM jurisdiction. The intent of this proposal, according to the Administration, is to consolidate into large areas management of the agencies' adjacent "checkerboard" holdings, to improve services, and to cut costs by eliminating overlapping responsibilities and duplicative offices and services. The Administration has estimated the cost savings to be $27 to $32 million annually, although $40 million is needed to conduct the transfer ($14 million is included in the FY86 budget proposal for the Forest Service).

The proposed interchange would require legislation to change the jurisdiction over lands, but sharing of personnel is expected to proceed administratively. Joint BLM/Forest Service public field hearings were held during June in the areas affected by the interchange to obtain public comments on the recently completed State-by-State implementation plans. The Administration has announced that it is preparing a legislative environmental impact statement that will respond to the public comments and include proposed legislation to adjust the land jurisdictions. Until the needed congressional action occurs, the lands will continue to be managed under their present legislative authorities. The FY85 supplemental appropriations law (P.L. 99-88) and the FY86 continuing resolution (P.L. 99-190) both include language to prohibit the agencies from spending funds to implement the interchange until authorizing legislation has been enacted. (See also IB85101 -- Federal Land Management Transfers.)

PARKS AND RECREATION

A major issue concerning Federal parks and recreation policy is the funding for land acquisition for Federal and State parklands. Land acquisition funding peaked in 1978 and has since been significantly reduced.

The Land and Water Conservation Fund (LWCF), which is the principal means of funding acquisition of Federal lands for recreation and is a matching grant program for State recreation land and facility projects, is cut back from an appropriated level of $261 million in FY85 to an appropriation of $168.6 million for FY86.

Park and Outdoor Recreation Components in the FY86 Budget. The Administration proposed large cutbacks in expenditures in FY86 for Federal land acquisition and a 3-year moratorium on new acquisitions, elimination of recreation and historic preservation grants to the States, reduction of technical assistance to States and localities, and the increase of recreation fees and charges to recover a greater portion of the costs of providing recreation opportunities at Federal areas. The proposals were partially accepted in the Continuing Resolution (P.L. 99-190), but there has been no action on increases in user fees, nor have bills been introduced in either the House or Senate to provide for such a change.

While no legislative action was taken, the Senate Subcommittee on Public Lands and Reserved Water held oversight hearings on the matter of increased fee collection at Federal recreation areas on June 27, 1985. (See also IB85053 -- Park and Outdoor Recreation Components in the FY86 Budget.)

P.L. 99-190 cut land acquisition for the Forest Service from an FY85 level of $50.5 million to $28.1 million for FY86; for the National Park Service from $95.7 million to $48.1 million; for the Bureau of Land Management from $2.7 million to $2.3 million; and for the Fish and Wildlife Service from $64.2 million to $40.4 million. Matching recreation grants to States were cut from $73.4 million to $49.7 million. Grants for historic preservation were cut from $21.1 million in FY85 to $20.4 million in FY86; the National Trust for Historic Preservation was cut from $4.41 million to $4.38 million.

The National Recreation and Preservation program was cut from $11.1 million to $11.0 million. The total budget for the National Park Service was cut from $954.7 million to $876.2 million for FY86.

Within the Bureau of Land Management, funding for Recreation Management increased from $18.2 million to $21.4 million in FY86. In the Forest Service, funding for Forest Recreation rose from $2.07 million to $2.14 million. Funding for National Forest Trail Construction dropped from $7.1 million to $7.0 million.

Reassessing Recreation Needs and National Policies. Federal recreation policies and programs largely follow the recommendations set by the Outdoor Recreation Resources Review Commission (ORRRC) in 1962. Laurance Rockefeller, former ORRRC chairman, funded a private review of "Outdoor Recreation for America 1983" and this resulted in a recommendation for a new national level commission. Legislation to institute such a commission for another comprehensive review of recreation needs and national policy options passed the Senate in the 98th Congress, but Congress did not complete action on the measure. On Jan. 28, 1985, President Reagan created a Presidential commission on outdoor recreation by executive order No. 12503. Selection of the members to serve on the commission was announced in August, and an organizational meeting of the group was held Sept. 13, 1985.

LEGISLATION

PUBLIC LANDS

H.R. 1827 (Pease)
Resources Cost Cutting and Conservation Act. Implements 5-year fee recommendations of the Grace Commission, including recreation fees, and authorizes competitive bidding for grazing privileges. Introduced Mar. 28, 1985; referred to Committees on Agriculture and on Interior and Insular Affairs.

H.R. 2790 (Cheney)
Makes permanent current formulas for determining public land livestock grazing fees. Introduced June 16, 1985; referred to Committee on Interior and Insular Affairs.

S. 373 (Bumpers)
Amends the Mineral Leasing Act of 1920 to authorize competitive oil and gas leasing and establish fairer leasing procedures for onshore Federal lands. Introduced Jan. 31, 1985; referred to Committee on Energy and Natural Resources.

S. 570 (Wallop)
Amends the Mineral Leasing Act of 1920 to improve the administration of the Federal Coal Leasing Program. Introduced Mar. 5, 1985; referred to Committee on Energy and Natural Resources.

NATIONAL FORESTS

P.L. 99-88, H.R. 2577
FY85 supplemental appropriation. Senate adopted amendment to prohibit Departments of the Interior and Agriculture funds from being used to implement proposed jurisdictional interchange program within Arizona, Montana, New Mexico, and Wyoming. Introduced May 22, 1985. Reported by Committee on Appropriations May 22, 1985 (H.Rept. 99-142). Passed House June 12, 1985; passed Senate, amended, June 20, 1985. Conferees amended to make prohibition apply in all States. Signed into law Aug. 15, 1985.

PARKS AND RECREATION

P.L. 99-68, H.R. 1373
Names the wilderness area in the Point Reyes National Seashore after the late Phillip Burton. Introduced Feb. 28, 1985; referred to Committee on Interior and Insular Affairs. Reported Mar. 28, 1985 (H.Rept. 99-31). Passed House Apr. 2, 1985. Reported to Senate from Committee on Energy and Natural Resources June 27 (S.Rept. 99-95). Passed Senate July 9, 1985. Signed into law July 19, 1985.

H.R. 37 (Seiberling)/S. 194 (Moynihan)
Authorize a program to identify, commemorate, and preserve historic landscapes designed by Frederick Law Olmsted and his associates. Introduced Jan. 3, 1985; referred to Committee on Interior and Insular Affairs. Hearings held Mar. 26, 1985; forwarded to full Committee Apr. 3, 1985. Passed House June 3, 1985. S. 194 introduced Jan. 3, 1985; referred to Committee on Energy and Natural Resources.

H.R. 99 (Seiberling)/S. 27 (Moynihan)
Establishes an American Conservation Corps and thereby provides for the conservation, improvement, and rehabilitation of natural and cultural resources on public and Indian lands. H.R. 99 introduced Jan. 3, 1985; referred to Committee on Interior and Insular Affairs and Committee on Education and Labor. Hearings held in both Committees and the Interior Committee reported the bill Mar. 14, 1985 (H.Rept. 99-18, Part 1). Reported from Committee on Education and Labor May 2 (H.Rept. 99-18, Part 2). Passed the House by a vote of 193 to 191 on July 11, 1985. S. 27 introduced Jan. 3, 1985; referred to Committee on Energy and Natural Resources.

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MLC-069

NATURAL RESOURCES: WATER, OUTER CONTINENTAL SHELF, WILDLIFE, AND FISHERIES

...diverse demands on basic resources...

WATER RESOURCES

Water resources development has been affected in recent years by uncertainty resulting from executive-legislative confrontations over future policy, especially concerning additional non-Federal cost-sharing by the local project sponsors. After extensive debate, the 98th Congress adjourned, leaving the resolution of water policy issues to the 99th Congress. There have been tentative and partial understandings on a limited number of "new start" funding issues in a supplemental FY85 appropriations bill (P.L. 99-88). Action on omnibus authorization bills in both Houses has begun -- with H.R. 6 passing the House, amended, on Nov. 13, 1985 -- and with Senate consideration of S. 1567 expected early in the second session; meanwhile annual appropriations in H.R. 2959 have been enacted (P.L. 99-141) for the fiscal year beginning Oct. 1, 1985.

Project planning and construction is largely carried out by three Federal construction agencies: the U.S. Army Corps of Engineers in the Defense Department, the Bureau of Reclamation in the Interior Department, and the Soil Conservation Service (SCS) in the Agriculture Department. These agencies plan and develop multiple-purpose water projects, which include such benefits as flood control, navigation, hydroelectric power, irrigation, municipal and industrial water supply, recreation, water quality, and fish and wildlife enhancement. Another agency, the U.S. Geological Survey, provides much of the Nation's water resources data base. In the past, various other agencies have provided a Federal-level water policy coordination function.

Water Projects Budget Summary. As submitted to Congress, the President's budget proposal for FY86 on water projects spending has incorporated the Administration's cost sharing policy by requesting only 75% of current budget authority levels and proposing that Congress enact new user fees and other non-Federal shares of both construction and maintenance expenditures. This budgetary shift would have affected the Army Corps of Engineers most directly, with 29 new project starts and one-third of all operation and maintenance to involve greater cost recovery. The Bureau of Reclamation request is also down about 25%, and while three new projects would be started, an additional 23 reclamation projects would be delayed in order to lower the budget. Despite these proposed cuts in "budget authority," as a result of congressional action, the actual "outlays" for water resources during FY86 are projected to be at current FY85 levels, due to carryover spending. Long-term resolution on the cost sharing, however, is still on the agenda, in the form of the omnibus authorization bills. The Administration has incorporated its concepts into the annual funding proposals, in order to force the issue more immediately. One program proposed for elimination, the small watershed program of the Soil Conservation Service, was continued by congressional action.

The Appropriations Committees have included "new starts" (45 approved in total following conference action) in a FY85 supplemental funding bill (P.L. 99-88, H.R. 2577), which may also prove to "break the logjam" over such funding, by containing contingency provisions regarding cost sharing -- issues also embodied on the omnibus authorization bills. The separate House-passed Energy and Water funding bill for the fiscal year beginning Oct. 1, 1985 (H.R. 2959 for FY86) had provisions removed for "new start" monies of up to $115 million for 66 construction starts.

Congress is confronted with deciding the future direction of national water resources policy with regard to several difficult issues. The seven-year stalemate over several controversial issues that has prevented enactment of omnibus bills to authorize new projects continues in the 99th Congress. Omnibus project authorization bills (H.R. 6, S. 1567) were reported prior to the August recess (H.Rept. 99-251; S.Rept. 99-126) and House passage came on Nov. 13, 1985. In addition, the Administration's proposals have also been introduced (S. 534, H.R. 1557, H.R. 1558/S. 967). Major differences exist, however, among the leading legislative proposals, as well as between the Administration and Congress.

The most basic policy choice is whether a large number of new project authorizations should be accompanied by cost-sharing innovations that will also serve to reduce the overall Federal responsibility and spending for water resources. The Reagan Administration in mid-1983 proposed increased local cost-sharing and user fee principles in order to turn more Federal functions over to other levels of government, and to reduce the Federal budget deficit. However, on Jan. 24, 1984, the Administration indicated that its higher, fixed percentages proposed for local cost sharing on various types of projects would no longer be insisted upon, but greater cost sharing would remain as a goal and would be "negotiated" by each agency. In June 1985, the Administration and Senate Republican leadership agreed to a compromise on cost sharing and user fees for Corps of Engineers projects, and soon thereafter the House Public Works Committee incorporated some port development features of that compromise into H.R. 6 as it was reported on Aug. 1, 1985 and later passed. (See also archived IB85041 -- Water Resources Budget; and IB85044 -- Water Project Development Cost Sharing Issues.)

OUTER CONTINENTAL SHELF ISSUES

The Reagan Administration has proposed to increase the level of Federal offshore oil leasing to developers in an effort to increase U.S. domestic energy production, as well as to raise additional revenues to help offset the national debt. The Interior Department developed a 5-year accelerated leasing program to accomplish this task. The rationale behind the program was to open "frontier" areas of "high resource potential." The 5-year accelerated lease program called for 41 lease sales from August 1982 through June 1987.

The development of the next 5-year leasing program -- which will include lease sales from 1986 through 1991 -- is currently underway, and contains modifications to the initial Reagan OCS leasing program. A draft of the proposed 5-year program was released on Mar. 21, 1985. Secretary Hodel has said it "proposes to adjust the pace of offshore leasing in light of the downward trend in oil prices over the last few years and the possibility of slower price increases in the future." But the proposal does contain a provision which would accelerate sales in areas of higher value and industry interest, "should economic conditions or new geologic data warrant."

While the draft of the proposed new 5-year program still invokes the "areawide" approach of the current program, under the proposed program it is called the "modified areawide" approach. Through the "modified areawide" approach, tracts of low-interest to industry, or tracts where there exists high resource-use conflict, can be excluded from the sale planning process at the earliest possible opportunity. Thus, an early "focusing" would occur through the "modified areawide" approach.

The Minerals Management Service (MMS) is responsible for leasing and supervising the development of oil and gas resources in the OCS. MMS also has responsibility for collecting and accounting for royalties and other mineral revenues from all Federal and Indian leases. The FY86 budget estimate for these activities is $154 million, approximately $8 million less than the FY85 appropriation.

Receipts from the OCS leasing and development program generally account for 1.5% of total Federal revenues. FY84 receipts were $6.7 billion, while estimated FY85 receipts are $5.3 billion. The FY86 budget estimate for these receipts is $8.3 billion, of which $2.5 billion represents escrow (capital plus interest) payout.

One issue of concern is whether the accelerated leasing program provides adequate environmental safeguards. In particular, States have been concerned whether they have the legal tools necessary to require accommodation of their concerns in lease sales. A January 1984 U.S. Supreme Court decision interpreted section 307(c)(1) of the Coastal Zone Management Act as not requiring Federal lease sale "consistency" with an affected State's coastal zone management program. In the budget reconciliation legislation (H.R. 3128), the conferees accepted amendments to Section 19 of the OCS Lands Act, which would strengthen the role of State and local governments in planning lease sales. These amendments, if signed into law, are significant because of the strengthened mechanism available to States for protection of environmentally sensitive coastal areas, if moratoria provisions are not enacted for certain OCS areas. Alternatively, implementation of this strengthened mechanism for State and local input into OCS lease sales could lessen the need for moratoria in the future.

For the past 4 years, Congress has enacted, through provisions in the Interior Department appropriations legislation, OCS leasing and development moratoria for areas off New England, California, and the Gulf coast of Florida (FY84 only). In an effort to prevent further moratoria, the Interior Department negotiated a tentative agreement in June 1985 that would permit leasing and development in 150 tracts off California. Legislation was introduced in the first session of the 99th Congress which reflected this agreement. The FY86 continuing appropriations (P.L. 99-190), which provides funding for the Interior Department for FY86, does not contain a moratorium for leasing in the California OCS, although it does continue the moratorium off New England.

Another concern of many of the coastal States is whether the Federal Government will continue to fund programs which protect the coastal environment and whether Congress will pass OCS revenue sharing legislation. Regarding revenue sharing, the reconciliation legislation (H.R. 3128), as reported to the conference, contains provisions for both "8(g)" and general revenue sharing. Other concerns are whether the United States should increase OCS oil and gas production at a time when domestic energy demand is slackening and whether the program would produce a fair market return for the Federal Government.

For additional details on OCS leasing issues, see IB85026 -- Overview of the Outer Continental Shelf Leasing Plan, IB85027 -- Outer Continental Shelf Revenue Sharing, and IB85201 -- Outer Continental Shelf Leasing Moratoria.

WILDLIFE AND MARINE MAMMALS

Responsibility for managing wildlife resources rests primarily with the States, except where pre-empted by the Federal Government. The principal Federal agency with responsibility for wildlife resources is the Fish and Wildlife Service in the Department of the Interior, although such major Federal land managers as the Bureau of Land Management, the National Park Service, and the U.S. Forest Service also have professional wildlife programs of research and management.

FY86 Budget. The Administration requested cuts in most programs for fish and wildlife. Congress rejected most of the substantial cuts, and in some cases raised appropriations over the FY85 level. The Interior and Related Agencies Appropriations were included under the Continuing Resolution, H.J.Res. 465, which became P.L. 99-190.

The appropriation for the Fish and Wildlife Service decreased funding for Resource Management from the FY85 level of $308.4 million to an FY86 level of $301.2 million; for Construction and Anadromous Fish from $24.3 million to $21.2 million; and for Land Acquisition from $63.2 million to $40.4 million. It increased funding for Endangered Species from the FY85 level of $27.1 million to $30.3 million; and for the Western Hemisphere Convention from $0.4 million to $0.5 million. The report accompanying the Continuing Resolution (Rept. 99-443) directed that the Fish and Wildlife Service study alternatives to steel as a nontoxic shot. It also directed a transfer of the Animal Damage Control Program from the Department of the Interior to the Department of Agriculture.

The appropriation for the Bureau of Land Management increased funding for Wildlife Habitat Management from the FY85 level of $15.8 million to $16.0 million. It also reduced the funding of the BLM's Wild Horse and Burro Program from $17.2 million to $17.0 million.

The Forest Service Appropriation (included within P.L. 99-190) increased funding for Fish and Wildlife Research from the FY85 level of $8.9 million to $9.5 million; for Fish and Wildlife Support from $22.3 million to $23.8 million; and for Habitat Improvement from $14.3 million to $15.0 million. It also decreased the funding for Direct Road Construction from the FY85 level of $229.8 million to $188.2 million, a move which some argue will help wildlife and fisheries populations.

Other major wildlife legislation in the 99th Congress includes making a Federal offense of the obstruction of any person in a lawful hunt or hunting season (H.R. 883); prohibiting use of steel-jaw leghold traps (H.R. 1809); improving wetland management (H.R. 572, H.R. 1203, S. 740); reauthorizing the Sikes Act (H.R. 1202); amending the Fish and Wildlife Coordination Act (H.R. 2704); reauthorizing the Fish and Wildlife Conservation Act (H.R. 1406); controlling trapping in the National Park System and on other public lands (H.R. 3804); and other issues.

The reauthorization of the Endangered Species Act has been a major item among wildlife issues in the

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99th Congress. Controversies have included the pace of listing of endangered and threatened species; continued hunting of grizzly bears; conflicts over water allocation in critical habitats; a continuation for the exemption allowing sale of captive-bred peregrine falcons; protection of plants found on private land; taking of threatened and endangered species by native Americans for religious, ceremonial, or treaty purposes; and the creation of experimental populations of endangered species outside the current range.

H.R. 1027, which would reauthorize the Act, passed the House on July 29, 1985. It mandated certain interim protections for candidate species awaiting listing, and a compromise plan for creation of a second population of California sea otters. It did not change current law regarding water rights, native Americans, peregrine falcons, or protection of plants. On Dec. 4, 1985, the Senate Committee on Environment and Public Works reported S. 725, its own 3-year reauthorization, without changes in existing law. For further information regarding endangered species, see IB85003 -- Endangered Species Act: Reauthorization.

For further detailed information on these and other issues concerning wildlife, see IB83020 -- Sport Hunting and Fishing: Major Legislation; and IB85003 -- Endangered Species Act: Reauthorization.

Marine Mammals. Protection and management of marine mammals is shared by the Fish and Wildlife Service (Department of the Interior) and the National Marine Fisheries Service (Department of Commerce). In addition, the independent Marine Mammal Commission (MMC) assesses all Federal actions affecting marine mammals and coordinates research on these animals.

Federal treatment of marine mammals is governed primarily by the Marine Mammal Protection Act (MMPA) of 1972 (P.L. 92-522, as amended), which provides significant protection for all marine mammal species. Additional international management measures are encouraged by U.S. participation in treaties and agreements for whales, Pribilof Island fur seals, Antarctic seals, and endangered species.

For FY86 marine mammal programs within the Fish and Wildlife Service and Department of State (International Commissions), the Administration recommended stable funding, while those within the National Marine Fisheries Service (NMFS) were recommended for severe cuts. Funding for NMFS programs related to protected species (mostly marine mammals) were proposed for reduction from about $11.3 million (FY85) to about $7.0 million (FY86). For the Marine Mammal Commission, a major cut in their contract research budget drops recommended funding from $929,000 (FY85) to $781,000 (FY86). However, Congress enacted P.L. 99-180, which restored most of the funding for these programs.

Legislation introduced in the 99th Congress focuses on termination of the Pribilof fur seal treaty (H.R. 427); implementation of the International Whaling Commission's moratorium on commercial whaling (H.Con.Res. 23, H.Con.Res. 54, H.Con.Res. 258); negotiation of a new treaty to protect Northern Hemisphere seals (H.Con.Res. 44); procedures for translocation of endangered California sea otters (H.R. 1027); negotiation of a humpback whale sanctuary in the Caribbean (H.J.Res. 67); and other issues.

For further detailed information on these and other issues concerning marine mammals, see IB85002 -- Marine Mammal Issues: 99th Congress Overview.

FISHERIES

Aquaculture. Aquaculture (fish culture) activities are conducted primarily within three departments of the Federal Government -- the Department of Agriculture, the Department of Commerce (National Marine Fisheries Service and National Sea Grant Program), and the Department of the Interior (Fish and Wildlife Service). In addition, at least nine other agencies have an interest in this issue.

Administration policy in aquaculture is governed primarily by the National Aquaculture Act of 1980 (P.L. 96-362). The Department of Agriculture has sought to increase its aquaculture activities in response to this act primarily through sections of the Agriculture and Food Act of 1981 (P.L. 97-98) that authorize the establishment of four aquaculture research, development, and demonstration centers; create an aquaculture research and extension program; and authorize a $7.5 million Federal-State research program to improve domestic aquaculture.

In the National Marine Fisheries Service (NMFS) FY86 budget, aquaculture research activities were proposed for elimination, saving about $5.6 million. In addition, NMFS proposed transfer of Columbia River hatchery funding responsibilities to the Bonneville Power Administration. However, Congress enacted P.L. 99-180 rejecting the proposed transfer and fully funding NMFS aquaculture program. For Fish and Wildlife Service, hatchery construction was proposed at $1.156 million, a substantial increase from FY85. Hatchery operation and maintenance was proposed at $24.0 million, a decrease of 2.5% from FY85. Congress enacted P.L. 99-190, providing $3 million additional for hatchery operation and maintenance; and an additional $3.7 million for hatchery restoration and construction. The Lower Snake River Compensation Plan was proposed for $5.6 million, a 25.6% increase from FY85 for expanded operation of eight mitigation facilities; with an additional $12 million provided by the Army Corps of Engineers.

Legislation introduced in the 99th Congress focuses on provision of emergency loans for aquaculture operations (H.R. 543); provision for loans for aquaculture land purchases (H.R. 1463, H.R. 2609, S. 1598); establishment of a National Fish Hatchery System (H.R. 3167); and other issues. Congress enacted P.L. 99-198 containing a reauthorization through FY88 of the National Aquaculture Act.

For further detailed information on these and other issues concerning aquaculture, see IB83004 -- Aquaculture: Status of Technology and Future Prospects.

Sport fisheries. Recreational fishing in most freshwater areas and in inshore coastal marine waters under State jurisdiction is managed by the individual States. In freshwater, the Fish and Wildlife Service provides Federal assistance and coordination. Other Federal landholding agencies, such as the Bureau of Land Management and the Forest Service, manage fisheries resources on lands under their jurisdictions. In the marine environment, the National Marine Fisheries Service is responsible for sport fishing outside State coastal waters and assists with interstate coordination of fisheries concerns for inshore coastal waters.

Major administrative policy concerning recreational fisheries is governed by laws of the individual States. The Federal Aid in Sport Fish Restoration Program (otherwise known as the Wallop-Breaux or Dingell-Johnson Program) is the major source of Federal funding for State programs in recreational fisheries.

Within Resource Management for the Fish and Wildlife Service, Fishery Resources are proposed to receive $46.5 million for FY86, an increase of 0.7% from FY85. Major program changes proposed include termination of a one-year program on mitigation of acidified surface waters (-$1.96 million). Under the amended Federal Aid in Sport Fish Restoration Program (Dingell-Johnson or Wallop-Breaux Funds), $44 million is proposed for allocation to States in FY86 and a change from permanent to annual appropriations is sought by the Administration. However, Congress enacted P.L. 99-190 containing the FY86 Department of the Interior appropriations, rejecting any changes to the Wallop-Breaux Fund and providing additional funding for fisheries. In addition, the Administration has proposed a $918,000 reduction in NMFS's marine recreational fisheries program. Congress enacted P.L. 99-180 providing for full funding of NMFS' program.

Legislation introduced in the 99th Congress focuses on reauthorization of the Anadromous Fish Conservation Act (H.R. 1025, S. 991); protection of steelhead trout as a game fish (H.R. 2136, S. 954); a request that the Administration support full allocation to States of Wallop-Breaux Sport Fish Restoration Funds (S.Res. 130, H.Res. 134, H.Res. 165); and other issues.

For further detailed information on these and other issues concerning sport fishing, see IB83020 -- Sport Hunting and Fishing: Major Legislation; and archived IB85110 -- The Wallop-Breaux Sport Fish Restoration Fund: Proposed FY86 Administration Budget Cutbacks.

Commercial fisheries. Commercial fisheries in U.S. marine waters are under the authority of the National Marine Fisheries Service. However, commercial fisheries on the Great Lakes are managed by the Fish and Wildlife Service. Many other agencies are involved in import-export trade and domestic support services to the commercial fishing industry.

Administrative policy concerning marine commercial fisheries is governed primarily by the Magnuson Fishery Conservation and Management Act of 1976 (P.L. 94-265, as amended) which established Federal control of all fisheries resources within 200 miles of our coasts. Management is coordinated through a system of Regional Fishery Management Councils. Other important measures provide Federal encouragement and funding for industrial development and wise habitat management as well as guide U.S. implementation of international agreements relating to highly migratory tuna and anadromous salmon.

Major program reductions were proposed for the National Marine Fisheries Service (NMFS) in the Administration's FY86 budget. Funding for FY86 was proposed at $84.2 million, a reduction of 45.9% from FY85. Programs slated for major cuts included information collection and analysis, regulatory and management operations, regional fishery management councils, and fishery development and research programs. Programs in salmon vessel buy-back and fisheries grants to States would be terminated. However, Congress enacted P.L. 99-180, providing more than $158 million for NMFS -- essentially full funding for many programs.

Legislation introduced in the 99th Congress focuses on provisions that self-employed fish harvesters be treated as self-employed for pension plan purposes (H.R. 690, H.R. 975, S. 443); reauthorization and amendment of the Magnuson Fishery Conservation and Management Act (H.R. 1533, H.R. 1876, H.R. 2003, S. 747, S. 958, S. 1245, S. 1386); direction that the Secretary of Health and Human Services reevaluate and report to Congress on the use of sulfiting agents in seafood (H.R. 1427, S. 573); promotion through seafood marketing councils (H.R. 2935); creation of a mandatory inspection program for fish and shellfish (H.R. 1989); management of interjurisdictional fisheries resources (H.R. 1028); permanent exclusion for services on certain fishing boats from coverage under unemployment compensation tax (S. 392, S. 439, S. 1730, H.R. 2241, H.R. 3128); equalization of import duties on tuna (H.R. 1262, H.R. 3610); and other issues. In the 99th Congress, the Senate agreed to ratification of the Treaty between the United States and Canada concerning Pacific Salmon on Mar. 7, 1985; legislation implementing this Treaty was enacted (P.L. 99-5).

For further detailed information on these and other issues concerning commercial fisheries, see IB85005 -- Commercial Fisheries: Current Legislation and Budgets; IB85196 -- Commercial Fisheries: National and Regional Issues and Opportunities; and IB84092 -- Tuna: Fishery in Turmoil.

LEGISLATION

WATER RESOURCES

H.R. 6 (Howard)
Contains cost sharing provisions for water projects, as well as authorizations for new water projects. Introduced Jan. 3, 1985; referred to Committee on Public Works and Transportation. Reported Aug. 1, 1985 (H.Rept. 99-251, Parts 1-4). Passed House, amended, Nov. 13, 1985.

H.R. 1557 (Howard, by request)
Authorizes the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. Introduced Mar. 19, 1985; referred to Committee on Public Works and Transportation.

H.R. 1558 (Howard, by request)/S. 967 (Stafford, by request)
Authorizes the improvement of and funding for the inland and intracoastal waterways of the United States, and for other purposes. H.R. 1558 introduced Mar. 19, 1985; referred to more than one committee. S. 967 introduced Apr. 22, 1985; referred to Committee on Environment and Public Works.

S. 534 (Stafford, by request)
Authorizes new non-Federal cost sharing formulas for port development, and projects which include purposes such as hydroelectric power, municipal and industrial water, recreation, flood damage reduction, hurricane and storm damage reduction, agricultural water supply, fish and wildlife enhancement, and aquatic plant control. Introduced Feb. 27, 1985; referred to Committee on Environment and Public Works.

S. 1567 (Abdnor)
Contains cost sharing provisions for water projects, as well as authorizations for new water projects. Introduced Jan. 31, 1985; referred to Committee on Environment and Public Works. Reported Aug. 1, 1985 (S.Rept. 99-126).

OUTER CONTINENTAL SHELF ISSUES

H.R. 5 (Jones)
Establishes an Ocean and Coastal Resources Management and Development Fund from which coastal States would receive block grants. Introduced Jan. 3, 1985; referred to Committee on Merchant Marine and Fisheries.

H R. 624 (Young, D.)
Establishes in the Treasury the Coastal Resource and Economic Development Fund. Provides that for FY86 and for each fiscal year thereafter the Secretary of the Treasury shall pay specified block grant amounts to each coastal State and to each unit of local coastal government for specified environmental and economic purposes. Introduced Jan. 22, 1985; referred to more than one committee.

H.R. 641 (Breaux)
Requires an affected coastal State and the Interior Department to reach an agreement for the distribution of "8(g)" revenues prior to a lease sale. If no such agreement can be reached, then the Interior Department would set aside 50% of these monies for distribution to the affected State. Introduced Jan. 24, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1234 (Tauzin)
Reauthorizes Coastal Zone Management Act through 1993. Introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1445 (Studds)
Amends and reauthorizes the Coastal Zone Management Act. Introduced Mar. 6, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1440 (Panetta)
Imposes a moratorium on oil and gas leasing and development in areas off California and Massachusetts until the year 2000. Introduced Mar. 6, 1985; referred to Committee on Interior and Insular Affairs.

H.R. 3128 (Rostenkowski)
Makes changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process. Introduced July 31, 1985; received joint referral. Reported to House from Committee on Ways and Means (H.Rept. 99-241, Part 1) July 31, 1985. Reported to House from Committee on Education and Labor (H.Rept. 99-241, Part II), and from Committee on the Judiciary (H.Rept. 99-241, Part III) on Sept. 11, 1985. Considered in and passed House Oct. 31, 1985. Referred to Senate Committee on Finance Nov. 11, 1985 and reported from Committee (without written report) Nov. 14, 1985. Considered in and passed Senate, in lieu of S. 1730, Nov. 14, 1985. Text of H.R. 3500, as passed House, inserted in H.R. 3128 Dec. 5, 1985.

S. 55 (Stevens)
Establishes an Ocean and Coastal Resources Management and Development Fund from which coastal States would receive block grants. Introduced Jan. 3, 1985; referred to Committee on Commerce, Science, and Transportation.

WILDLIFE AND MARINE MAMMALS

P.L. 99-180, H.R. 2965
FY86 appropriations for marine mammal programs in the National Marine Fisheries Service, the Marine Mammal Commission, and international commissions. Signed into law Dec. 13, 1985.

H.R. 427 (Roe)
Expresses sense of Congress that fur seal treaty be terminated, that negotiations be sought on a worldwide ban on seal harvests, that the Pribilof Islands be designated a wildlife refuge and marine sanctuary, and that alternative livelihood options for Pribilof residents be studied and recommended to Congress. Introduced Jan. 3, 1985; jointly referred to Committee on Foreign Affairs, Committee on Interior and Insular Affairs, and Committee on Merchant Marine and Fisheries.

H.R. 572 (Chappell)
Directs the Secretary of the Interior to classify and inventory wetland resources, to measure wetlands degradation, and to evaluate the contribution of natural wetlands to conservation and quality of the human environment. Introduced Jan. 22, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 883 (Marlenee)
Amends the Federal criminal code to make it a Federal offense to obstruct or impede the participation of any person in a lawful hunt or hunting season. Introduced Jan. 31, 1985; referred to Committee on the Judiciary.

H.R. 1027 (Breaux)
Extends the authorization of the Endangered Species Act through FY88. Introduced Feb. 7, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 14, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported with amendments May 15, 1985 (H.Rept. 99-124). Passed House amended July 29, 1985. Referred to Senate Committee on Environment and Public Works.

H.R. 1202 (Breaux)
Extends the authorization of appropriations to carry out conservation programs on military reservations and public lands through FY88 (Sikes Act). Introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 5, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported with amendment May 15, 1985 (H.Rept. 99-129, Part 1), and sequentially referred to Committee on Armed Services. Reported June 25, 1985 (H.Rept. 99-129, Part II). Passed House amended July 29, 1985.

H.R. 1203 (Breaux)/S. 740 (Chafee)
Promotes the conservation of migratory waterfowl and offsets or prevents the loss of wetlands through a program of land acquisition. H.R. 1203 introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 5, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported May 13, 1985 (H.Rept. 99-86, Part I). Referred sequentially to Committee on Interior and Insular Affairs. Discharged on May 14, 1985. S. 740 introduced Mar. 26, 1985; referred to Committee on Environment and Public Works. Reported June 25, 1985 (no written report).

H.R. 1406 (Breaux)/S. 1353 (Chafee)
Extends the authorization of the Fish and Wildlife Conservation Act of 1980 for State nongame conservation planning. Introduced Mar. 5, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Apr. 17, 1985. Reported May 9, 1985 (H.Rept. 99-75). Passed House July 29, 1985. S. 1353 reported by Committee on Environment and Public Works June 25, 1985.

H.R. 1809 (Lantos)
Prohibits the use of steel-jaw leghold traps. Introduced Mar. 28, 1985; referred to Committee on Energy and Commerce.

H.R. 2704 (Breaux)
Amends the Fish and Wildlife Coordination Act to revise the interagency coordination regarding the protection of fish and wildlife resources. Referred to Committee on Merchant Marine and Fisheries. Hearings held on June 20, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported Nov. 21, 1985 (H.Rept. 99-392). Passed House amended Dec. 2, 1985. Referred to Senate Committee on Environment and Public Works.

H.R. 2957 (Yatron)
Amends the Foreign Assistance Act of 1961 to protect tropical forests in developing countries. Referred to Committee on Foreign Affairs. Reported Dec. 11, 1985.

H.R. 2958 (Yatron)
Amends the Foreign Assistance Act of 1961 to protect biological diversity in developing countries. Referred to Committee on Foreign Affairs. Reported Dec. 11, 1985.

H.Con.Res. 23 (Roe), H.Con.Res. 258 (Dornan)
Urges compliance with International Whaling Commission's moratorium on commercial whaling. H.Con.Res. 23 introduced Jan. 3, 1985; referred to Committee on Foreign Affairs. H.Con.Res. 258 introduced Dec. 11, 1985; referred to Committee on Foreign Affairs.

H.Con.Res. 44 (Whitehurst)
Calls for negotiation of a regional treaty to protect Northern Hemisphere seals. Introduced Jan. 30, 1985; referred to Committee on Foreign Affairs.

H.Con.Res. 54 (Bonker)
Expresses the sense of Congress that all diplomatic and legal means possible be taken to achieve worldwide compliance with the IWC's moratorium on commercial whaling. Introduced Feb. 7, 1985; referred jointly to Committee on Foreign Affairs and Committee on Merchant Marine and Fisheries. Subcommittee on Human Rights and International Organizations held hearing May 8, 1985. Forwarded to Committee June 19, 1985.

S. 725 (Chafee)
Extends the authorization of the Endangered Species Act through FY90. Introduced Mar. 20, 1985; referred to Committee on Environment and Public Works. Subcommittee on Environmental Pollution held hearings Apr. 16 and 18, 1985. Reported Dec. 4, 1985.

FISHERIES

P.L. 99-5, H.R. 1093

Implements the Treaty between the Government of the United States of America and the Government of Canada concerning Pacific salmon. H.R. 1093 introduced Feb. 7, 1985. Signed into law Mar. 15, 1985.

P.L. 99-180, H.R. 2965

FY86 appropriations for fisheries programs of the National Marine Fisheries Service. Signed into law Dec. 13, 1985.

P.L. 99-190, H.J.Res. 465

FY86 appropriations for fisheries activities of the Fish and Wildlife Service. Signed into law Dec. 19, 1985.

P.L. 99-198, H.R. 2100

Title XVII extends the authorization of the National Aquaculture Act through FY88. Signed into law Dec. 23, 1985.

H.R. 543 (Stangeland)

Provides emergency loans to aquaculture operations impacted by national disaster for 3 or more consecutive years. Introduced Jan. 21, 1985; referred to Committee on Agriculture.

H.R. 690 (McKernan), H.R. 975 (McKernan)/S. 443 (Cohen)

Provides that certain fish harvesters treated as self-employed for Social Security tax purposes shall be treated as self-employed for pension plan purposes. H.R. 690 introduced Jan. 24, 1985; referred to Committee on Ways and Means. H.R. 975 introduced Feb. 6, 1985; referred to Committee on Ways and Means. S. 443 introduced Feb. 7, 1985; referred to Committee on Finance.

H.R. 1025 (Breaux)/S. 991 (Danforth)

Extends the authorization of the Anadromous Fish Conservation Act. In addition, S. 991 authorizes marine recreational fisheries programs of NMFS for FY86. H.R. 1025 introduced Feb. 7, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Feb. 21, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported Mar. 19, 1985 (H.Rept. 99-19) and passed House Mar. 19, 1985. S. 991 introduced Apr. 24, 1985; referred to Committee on Commerce, Science, and Transportation. Reported with amendment May 21, 1985 (S.Rept. 99-67). Passed Senate amended Oct. 2, 1985.

H.R. 1028 (Breaux)

Promotes management of priority interjurisdictional fisheries resources. Introduced Feb. 7, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Feb. 21, 1985. Failed of passage in House under suspension of rules Mar. 19, 1985. Passed House amended July 29, 1985. Referred to Senate Committee on Commerce, Science, and Transportation.

H.R. 1262 (Anderson of California), H.R. 3610 (Young of Alaska)

Equalizes duties on imported tuna. H.R. 1262 introduced Feb. 26, 1985; referred to Committee on Ways and Means. H.R. 3610 introduced Oct. 23, 1985; referred to Committee on Ways and Means.

H.R. 1427 (Wyden)/S. 573 (Gore)

Directs Secretary of Health and Human Services to reevaluate and report to Congress on the use of sulfiting agents in seafood. H.R. 1427 introduced Mar. 5, 1985; referred to Committee on Energy and Commerce. S. 573 introduced Mar. 5, 1985; referred to Committee on Labor and Human Resources.

H.R. 1463 (Evans of Iowa), H.R. 2609 (Evans of Iowa)/S. 1598 (Grassley)

Amends the Farm Credit Act of 1971 to direct offering of 20-year mortgage loans for aquacultural land purchases. H.R. 1463 introduced Mar. 7, 1985; referred to Committee on Agriculture. H.R. 2609 introduced May 23, 1985; referred to Committee on Agriculture. S. 1598 introduced Aug. 1, 1985; referred to Committee on Agriculture.

H.R. 1533 (Breaux), H.R. 1876 (Bosco), H.R. 2003 (Howard)/S. 747 (Lautenberg), S. 958 (Danforth), S. 1245 (Stevens), S. 1386 (Gorton)

Amends and reauthorizes the Magnuson Fishery Conservation and Management Act (H.R. 1876 and S. 1386 contain no reauthorization, H.R. 1533 through FY87, H.R. 2003 and S. 747 through FY90). H.R. 1533 introduced Mar. 19, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Mar. 26, 1985. Reported with amendment June 10, 1985 (H.Rept. 99-165). H.R. 1876 introduced Apr. 2, 1985; referred to Committee on Merchant Marine and Fisheries. H.R. 2003 introduced Apr. 4, 1985; referred to Committee on Merchant Marine and Fisheries. S. 747 introduced Mar. 26, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985. S. 958 introduced Apr. 18, 1985; referred to Committee on Commerce, Science, and Transportation. Reported May 22, 1985 (S.Rept. 99-70). S. 1245 introduced June 5, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985. S. 1386 introduced July 27, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985.

H.R. 1989 (Dorgan)

Creates a mandatory inspection program for fish and shellfish. Introduced Apr. 4, 1985; referred jointly to Committee on Agriculture and Committee on Merchant Marine and Fisheries.

H.R. 2136 (Swift)/S. 954 (Gorton)

Provides additional protection of steelhead trout as a game fish; prevents commercial take of steelhead trout by Indian tribes. H.R. 2136 introduced Apr. 18, 1985; referred jointly to Committee on Merchant Marine and Fisheries and Committee on Interior and Insular Affairs. S. 954 introduced Apr. 18, 1985; referred to Committee on Indian Affairs. Hearing held July 11, 1985.

H.R. 2935 (Breaux)

Promotes the consumption of fish products through establishment of seafood marketing councils. Introduced July 9, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing July 17, 1985. Reported Dec. 5, 1985 (H.Rept. 99-420). Passed House amended Dec. 9, 1985.

H.R. 3167 (Breaux)
Establishes a National Fish Hatchery System within the Fish and Wildlife Service. Introduced Aug. 1, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Oct. 2, 1985.

S. 392 (Heflin), S. 439 (Mitchell), S. 1730 (Domenici)/H.R. 2241 (Studds), H.R. 3128 (Rostenkowski)
Makes permanent the exclusion for certain service performed on fishing boats from coverage from unemployment compensation tax. S. 392 introduced Feb. 6, 1985; referred to Committee on Finance. S. 439 introduced Feb. 7, 1985; referred to Committee on Finance. H.R. 2241 introduced Apr. 24, 1985; referred to Committee on Ways and Means. S. 1730 introduced and reported by Committee on the Budget (S.Rept. 99-146). H.R. 3128 amended to insert text of S. 1730, and passed in lieu by Senate Nov. 14, 1985. Conference scheduled.

S.Res. 130 (Wallop)/H.Res. 134 (Marlenee), H.Res. 165 (Breaux)
Calls on the Administration to distribute total receipts to the Wallop-Breaux sport fish restoration fund to States. S.Res. 130 introduced Apr. 4, 1985; referred to Committee on Finance. H.Res. 134 introduced Apr. 18, 1985; referred to Committee on Ways and Means. H.Res. 165 introduced May 8, 1985; referred to Committee on Ways and Means.

Malcolm Simmons, Eugene Buck, Steve Hughes, Lynne Corn

SCIENCE AND TECHNOLOGY

MLC-070

COMPUTER SECURITY AND CRIME

...subject to deliberate acts of fraud...

Computer crime and security is a topic that has gained increasing attention in Congress since legislation was first introduced in 1977. The use of computer systems has grown exponentially in the Federal Government, financial institutions, schools, homes, medicine, and elsewhere. Computers are subject to deliberate acts of fraud by insiders or those familiar with the information system; or by hackers, who enter a system to manipulate, destroy, or modify computerized data. The incidence of computer crime is believed to be extensive, yet no one is sure exactly how much damage is being done in unsecured systems. Some estimates place this damage at up to one billion dollars per year.

On Oct. 10, 1984, Congress passed the first Federal legislative measure dealing with computer crime and security, the Counterfeit Access Device and Computer Fraud Act of 1984 (Chapter XXI of P.L. 98-473). This law has three components: it outlaws (1) gaining access to a Federal computer system without authorization to modify, destroy, or disclose information; (2) gaining access to or using computers without authorization to obtain financial or credit information protected by Federal financial privacy laws; and (3) gaining access to or using computers without authorization to obtain classified military intelligence information.

Policymakers in the 99th Congress are considering several unresolved issues. The precise definitions of "unauthorized access" and "uses" of computers, as stated in the law, are unclear, as are the rights of individuals and Federal Government "whistle blowers" who might be affected by the statute. The role of States in preventing computer crimes in the private sector, and how much Federal jurisdiction there should be over the States, also has been debated by Congress. How computer crime laws can be written to reflect the ever-changing technology and growing use of computers is yet another policy issue being considered. Finally, oversight of Federal computer systems both in the defense and civilian sector in the form of reviews, audits, and management and training of personnel are being examined during the 99th Congress.

LEGISLATION

H.R. 930 (Nelson)
National Computer Systems Protection Act of 1985. Addresses the problem of breaking into financial institutions by making unauthorized access a felony. Applies to *all* financial institutions covered by the Federal Government, or those involved in interstate or foreign commerce. In addition, addresses the issue of concurrent Federal and State jurisdiction by granting the States such jurisdiction where it now exists concurrently. Federal law enforcement officers could take into consideration such factors as the gravity of the offense and the relative interest of investigation and prosecution before entering into a State's jurisdiction. Introduced Feb. 4, 1985; referred to Committee on the Judiciary. Hearings held May 23, 1985, by Subcommittee on Criminal Justice.

H.R. 995 (Wyden)
Medical Computer Crime Act of 1985. Provides misdemeanor penalties for unauthorized access into medical records and felony punishment for unauthorized access and fraud with intent to alter medical records. Aims directly at such criminal activities that use telecommunication devices, which would include a telephone, telegraph or microwave transmitter or receiver. Introduced Feb. 6, 1985; referred jointly to Committee on Energy and Commerce, Subcommittee on Health and the Environment, Feb. 26; and to Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, Mar. 6, 1985.

H.R. 1001 (Hughes)

Counterfeit Access Device and Computer Fraud and Abuse Act of 1985. Puts back into the Computer Fraud Act two provisions deleted from the Computer Fraud Act during conference in the 98th Congress. The first provision would make it a felony to gain unauthorized access (or authorized access beyond permitted authority) to carry out a scheme to defraud which results in an actual loss of up to $5,000 in a one year period. The second provision creates a misdemeanor penalty when, in the absence of a scheme to defraud, there is unauthorized access (or one exceeds authorized access) which results in a loss of up to $5,000 in a one year period. The purpose of these changes is to make a distinction between intentional, malicious trespassing (a felony) and unintentional or mistaken trespassing (a misdemeanor). Introduced Feb. 6, 1985; referred to Committee on the Judiciary Hearings held May 23, 1985, by Subcommittee on Criminal Justice.

H.R. 2889 (Glickman)

Computer Security Training and Research Act of 1985. Establishes within the National Bureau of Standards a computer security research program to provide for the training of Federal employees who are involved in the management, operation, and use of automated information processing systems. Introduced June 27, 1985; referred jointly to Committees on Government Operations and on Science and Technology. Government Operations Committee requested executive comment from OMB, Department of Commerce, GAO, GSA, NASA, DOD, and CIA; referred to Subcommittee on Legislation and National Security July 5, 1985. Hearings held Sept. 18, 1985. Marked up and forwarded to full committee Oct. 28. Science and Technology Committee referred bill to Subcommittees on Science, Research, and Technology and on Transportation, Aviation, and Materials July 9. The former subcommittee held hearings Nov. 19, and forwarded the bill, amended, to full committee Nov. 21. The latter subcommittee held hearings Nov. 14, and forwarded the bill, amended, to full committee Nov. 14, 1985.

H.R. 3378 (Kastenmeier)

Electronic Communication Privacy Act of 1985. Updates the Omnibus Crime Control and Safe Streets Act of 1968 (Federal Wiretap Law). Extends the prohibition of illegal wiretapping of certain "aural" communications, such as telephone conversations, to eavesdropping on new forms of digital electronic devices, such as electronic mail, cellular and cordless telephones, paging devices, and other new data transfer devices. Excludes certain devices from this wiretapping provision, such as walkie-talkies, ham radios, and citizen band radios. This is to ensure division between what are considered obvious public vs. private forms of communication. Introduced Sept. 19, 1985; referred to Committee on the Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice Sept. 24, 1985. Subcommittee hearings held Sept. 26 and Oct. 24, 1985. Executive comment requested from the Department of Justice, the Federal Communications Commission, and the Administrative Office of the United States Courts Sept. 26, 1985. [Identical bill: S. 1667.]

H.R. 3381 (McCollum)

Federal Computer Systems Protection Act of 1985. Part of a comprehensive crime package as recommended by the Justice Department. Completely revises the computer crime section of P.L. 98-473, and proposes seven new sections in its place. These include: a felony provision for accessing computers for fraudulent purposes (including Federal computers, computers in institutions protected by a wide variety of Federal financial laws, and interstate computer fraud and abuse); a felony provision for knowing and unauthorized damage or destruction of Federal computers; a misdemeanor to gain access without authorization into Federal computers or financial institution covered by Federal financial laws; forfeiture of interest acquired by the Federal Government in illegal computer transactions; authority for the Attorney General to investigate other departments or agencies to implement this act; exemption of lawfully conducted and authorized investigations from this act; and a series of definitions under this law. Introduced Sept. 19, 1985; referred to Committee on the Judiciary. Referred to Subcommittee on Crime Sept. 30, 1985.

S. 440 (Trible)

Computer Systems Protection Act of 1985. Gives the Federal Government broad jurisdiction over Federal, financial, and national security computers and data within the guidelines of the existing 1984 Computer Fraud Act. Does not change either the misdemeanor or felony provisions of the current law. Provides for general Federal and State concurrent jurisdiction by granting most of those powers to the States. S.440 is very similar in purpose and language to the 1977 Ribicoff legislation. Introduced Feb. 7, 1985; referred to Committee on the Judiciary. Referred to Subcommittee on Criminal Law Apr. 30, 1985. Committee on the Judiciary requested executive comment from the Justice Department and the Treasury Department May 1. Subcommittee on Criminal Law held hearings Oct. 30, 1985.

S. 610 (Mathias)

Clarifies coverage with respect to access to computers operated for or on behalf of the Federal Government, and addresses the "whistle blower" issue. Limits the scope of the 1984 Computer Fraud Act by prohibiting the disclosure of only "personally identifiable information" covered by the Privacy Act of 1974. Federal employees who disclose generic information from a government computer to external sources would remain outside of the scope of the 1984 law, provided the information does not have national security implications. Introduced Mar. 7, 1985; referred to Committee on the Judiciary. Referred to the Subcommittees on Constitution, and on Criminal Law May 9, 1985. Committee on the Judiciary requested executive comment from the Justice Department May 10, 1985.

S. 1667 (Leahy)

Electronic Communications Privacy Act of 1985. Extends the prohibition of illegal wiretapping of certain "aural" communications, such as telephone conversations, to eavesdropping on new forms of digital electronic devices, such as electronic mail, cellular and cordless telephones, paging devices, and other new data transfer devices. Excludes certain devices from this wiretapping provision, such as walkie-talkies, ham radios and citizen band radios. This is to ensure division between what are considered obvious public vs. private forms of communication. Introduced Sept. 19, 1985; referred to Committee the on Judiciary. Referred to Subcommittees on Criminal Law, and on Patents, Copyrights and Trademarks Oct. 1, 1985. Committee on the Judiciary requested Executive comment from the Justice Department, Federal Communications Commission, and the Administrative Office of the United States Courts Oct. 1, 1985. Subcommittee on Patents, Copyrights and Trademarks held hearings Nov. 13, 1985. [Identical bill: H.R. 3378.]

S. 1678 (Thurmond)
Federal Computer Systems Protection Act. The Senate version of the Justice Department's comprehensive crime package. Completely revises the computer crime section of P.L. 98-473 and proposes seven new sections in its place (see H.R. 3381, above). Introduced Sept. 20, 1985; referred to Committee on the Judiciary. Referred to Subcommittee on Criminal Law Oct. 1, 1985.

Glenn McLoughlin
IB85155

MLC-071

MILITARY AND CIVILIAN SPACE ACTIVITIES

...debating antisatellite weapons testing...

NASA's FY86 Authorization

The Administration requested $7,866 million for NASA's FY86 budget, an increase of 5%. The NASA FY86 authorization (P.L. 99-170) included $7,666 million and the appropriation (P.L. 99-160) provides $7,656 million. The Gramm-Rudman-Hollings deficit reduction process (the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177) will reduce the NASA appropriation to $7,232 million, which is $279 million below the FY85 funding level.

Shuttle Pricing Policy. The issue of shuttle pricing, or the price NASA charges users of the shuttle, has involved not only NASA, but the Department of Transportation, Department of Commerce, the White House, and the Congress. The issues under discussion include: maintaining U.S. leadership in space transportation, maximizing the economic benefit of the shuttle, competing with Ariane (the European launch vehicle), and developing the commercial expendable launch vehicle industry.

The House Science and Technology Committee recommended that the average price for a shuttle launch (prices are stated for a full pay load bay and price for an individual user depends on size and weight of the payload) be $66 million (1982 dollars). The Committee recommended an upper limit of $71.4 million, which in the Committee's estimate was the average operating cost of a dedicated commercial flight, and a lower limit of $44 million, representing the additive cost of providing shuttle services to commercial customers.

However, on the floor, the House adopted an amendment by Representative Walker to increase the upper range of shuttle pricing to $106 million, representing the average operating cost plus capital recovery charge. The $106 million could be charged only if the United States captured two-thirds of the world's market for commercial launches.

The Senate authorization and appropriations bills did not address the question of shuttle price pending the decision of the Senior Interagency Group on Space (SIG-Space). The SIG-Space recommendation was endorsed by the President and directs NASA to auction off shuttle capacity, setting the minimum bid at $74 million. The policy includes other provisions to set aside three shuttle equivalents for commercial users until two years before launch.

The House and Senate conference report on NASA's authorization bill largely endorsed the SIG-Space position, setting the base price at $74 million. However, the report language also includes a provision which allows NASA to lower the price to as low as $44 million if necessary to remain competitive on the international launch market. The NASA Administrator is directed to notify the Congress 45 days before taking such an action. The conference bill was later signed into law.

Fifth Orbiter. In the continuing controversy over whether NASA should procure a fifth shuttle orbiter, the House Science and Technology Committee expressed its view that a fifth orbiter would be needed and added $45 million to maintain production lines for the orbiter pending a decision by the Administration and Congress to approve procurement. An attempt on the floor by Representative Meyers to delete the $45 million addition failed. Representative Kramer has introduced a bill (H.R. 1475) that takes a different approach for procurement of a fifth orbiter by directing the Air Force to acquire its own orbiter for national security purposes. No action has been taken on the bill. The Senate Commerce, Science, and Transportation Committee did not add funding to the structural spares category, and, in fact, reduced funding by $10 million. In conference, funding for structural spares was returned to the request level.

Space Weapons

The debate over U.S. space weapons programs for antisatellite (ASAT) and space-based ballistic missile defense (the Strategic Defense Initiative) missions is increasing in Congress. The two programs are different -- one is for attacking satellites, the other for attacking ballistic missiles en route to their targets -- and are treated separately in the DOD budget, although the technology for both systems can be similar.

Antisatellite Weapons. The United States had an operational ASAT system from 1964 to 1975 using ground-based missiles at Johnston Island in the Pacific. In 1977, President Carter approved development of a new ASAT system using air-launched homing interceptors. This system was tested twice in 1984 against points in space; testing against objects in space was prohibited by congressional language in the FY85 DOD authorization and appropriation bills until 15 days after the President certified to Congress that he is endeavoring in good faith to obtain an agreement with the Soviets containing the strictest possible limits on ASATs, that such tests are necessary to avert clear and irrevocable harm to national security, that such tests would not gravely impair the prospects for getting such an agreement, and that the tests would be in conformance with the 1972 ABM treaty. The President submitted such certifications on Aug. 20, 1985, and the first test against an object in space was successfully conducted on Sept. 13, 1985. The test and the prior Presidential certifications were quite controversial.

In 1983, the Soviet Union announced that it had imposed on itself a unilateral moratorium on ASAT testing as long as other countries did not launch ASATs, and they have apparently abided by that statement (the last Soviet ASAT test was in June 1982). The Soviets have, however, already conducted 20 tests of their ASAT against objects in space, and it is considered operational by the U.S. Department of Defense (the Soviet ASAT tests began in 1968).

Some Members of Congress want to impose a total moratorium on U.S. ASAT testing, and have introduced three resolutions to that end (H.J.Res. 252, S.Res. 131 and S. 885). Other Members want to proceed full pace with the ASAT program, so this issue will continue to be controversial.

In its report on the FY86 DOD authorization bill, the House Armed Services Committee (H.Rept. 99-81) reduced funding for the ASAT R&D program by $48.2 million (from a request of $149.9 million), and reduced funding for the ASAT command and control center in Colorado by $5 million (from a request of $73 million). The Senate Armed Services Committee (S.Rept. 99-41) recommended the requested amount for ASAT R&D, but reduced the command and control center request by $20 million. The House passed the Senate bill in lieu on June 27; conference reports were filed in both Houses on July 29, and the Senate and House agreed to the conference report on July 30 and October 29, respectively. The conference report approved the requested $149.9 million for ASAT RDT&E, $9.7 million for RDT&E related to the command and control center (from a request of $19.7 million), the requested $38.1 million for F-15 aircraft procurement, $32.9 million for ASAT procurement (a $65 million cut), and no money for command and control center procurement ($5.9 million was requested). The bill was signed into law (P.L. 99-160) on Nov. 8, 1985.

During debate on the bill, the Senate rejected an amendment by Senator Kerry to impose a moratorium on ASAT testing during FY85 and FY86, and adopted an amendment by Senator Warner that essentially reimposed the conditions agreed to in the FY85 budget, requiring the same Presidential certifications before testing of the U.S. ASAT against objects in space, except that it gave the President more latitude by not restricting the number of tests.

Regarding FY86 ASAT-related appropriations, the continuing resolution (H.J.Res. 465), including DOD appropriations, deleted ASAT missile procurement and prohibits ASAT testing against objects in space unless the Soviet Union breaks its self-imposed moratorium by testing a dedicated ASAT weapon against an object in space. Specific funding decisions were: $165 million for ASAT RDT&E ($149.9 million requested); $4.7 million for control center RDT&E ($19.7 million requested; $15 million cut to be applied to the ASAT Mission Control Center, thus not funding it); $38.1 million for F-15 aircraft-related procurement (as requested); no funds for ASAT procurement or advanced procurement ($83 million plus $14.9 million requested); and an unspecified $5.9 million cut from the line item which included command and control center procurement. The testing prohibition drew a strong, albeit short lived, protest from DOD. The bill includes a provision, proposed by Senator Simon during floor action, which directs a $5 million research program to develop new and improved verification techniques to monitor compliance with any antisatellite weapon agreement that may be entered into with the Soviet Union.

The FY86 Military Construction Appropriations Act did not include funds for ASAT operational facilities at Langley Air Force Base, Virginia; $14.9 million were requested. The sense was that program delays argued for deferral of this construction. Representative Brown initially proposed the cut during floor action.

Strategic Defense Initiative. On Mar. 23, 1983, President Reagan called on the Nation's scientists to investigate the technical feasibility of defensive technologies or systems that could render nuclear weapons "impotent and obsolete." Dubbed "Star Wars" by the media, the program is officially called the Strategic Defense Initiative (SDI) and was established to perform research and technology development on a ballistic missile defense (BMD) system that could involve space-based weapons. The SDI research program was initially estimated to cost $26 billion over 5 years. If a decision were made to proceed with development, testing, and deployment of a BMD system, it would cost additional billions (an actual cost cannot be estimated at this time because neither the system design nor the technologies have been selected). For FY86, the Pentagon requested $3.7 billion for the SDI program, more than two and a half times as much as was appropriated for FY85 ($1.4 billion). The Senate Armed Services Committee recommended a funding level of $3.4 billion in its report on the DOD FY86 authorization bill (S.Rept. 99-41). A separate bill was introduced by Senator Proxmire and others that would reduce that amount to $1.8 billion (S. 879).

Although no decision has been made to deploy a BMD system, a concept does exist in which there are seven layers of defensive weapons covering different points in a missile's trajectory -- boost, post-boost, mid-course, and terminal. During the boost phase, the missile and its warheads are combined as one object. In the post-boost phase, the warheads (as many as 10 per missile) separate from the booster and proceed to their destination through the mid-course (coasting) phase and the terminal phase when they fall to their targets. The boost phase is considered the most attractive, since destroying a single booster would negate all its warheads, and it is generally accepted that at least some components of a weapons system to destroy Soviet missiles, particularly during the boost phase, would have to be stationed in space.

SDI is controversial for a variety of reasons including cost, technical feasibility, and arms control. While few people oppose a research effort for BMD as a hedge against a Soviet breakout in this area, many are concerned about the level of funding proposed for SDI, not only in terms of the budgetary impact, but also because they are not convinced that the research program will lead to enhanced national security and arms stability. Others think the program should proceed as quickly as possible and support the Administration's requested funding level.

As far as technical feasibility is concerned, there is virtual unanimity that a "perfect" defense cannot be built, and that some nuclear warheads could leak through an SDI-type system. However, it is argued that a perfect defense is not necessary to meet the President's goal of rendering nuclear weapons "impotent and obsolete." On the other hand, the SDI program currently addresses only strategic nuclear missiles, not manned bombers or cruise missiles, so even if all strategic missiles could be negated, there still could be a threat from other nuclear weapons delivery systems (discussions are taking place in the Administration to either broaden the SDI program or create a new one to deal with these other systems).

Critics of the SDI program argue that a defensive system which is anything less than 100% effective in destroying incoming missiles would not be worth its cost, because only a few "leakers" would cause considerable damage. SDI supporters claim that a less-than-perfect system would be a sufficient deterrent because the Soviets would never launch a first strike if they did not know, in advance, which of their warheads would get through. Opponents then argue that there is little point to building another deterrent, or an enhancement to deterrence, because the current U.S. deterrent force has worked quite well for the past three decades. They point out that SDI-type systems are prohibited by the ABM Treaty, and proceeding to development, testing, and deployment would mean that the United States would have to withdraw from or seek to modify that treaty, which could escalate the arms race.

Another problem related to technical feasibility is whether the system, particularly the space-based elements, would be able to survive attempts to debilitate or destroy it. System survivability is being studied within the SDI program. Yet another area of concern is whether the Soviets could develop countermeasures more easily and cheaply than it would cost to build or enhance an SDI-type system.

From a policy viewpoint, the Soviet Union is strongly opposed to SDI and has made opposition a cornerstone of the negotiations in Geneva over offensive and defensive weapons as well as public pronouncements at every opportunity. It is unclear as to whether they will be willing to make concessions on offensive weapons without the United States making concessions on the SDI program.

Beyond the immediate issue of the Geneva talks is concern that SDI will spur a new arms race in space and be destabilizing between the two superpowers, rather than stabilizing as the Administration claims. Administration witnesses have stated repeatedly that they expect the Soviet response to SDI to be a decreasing emphasis on offensive arms and increasing emphasis on building their own defensive system. SDI critics argue that the Soviets, instead, will increase their offensive arsenal in the hope of overwhelming the U.S. defensive system. They also argue that if the goal of SDI is to get the Soviets to decrease the number of offensive missiles, it would be considerably less expensive to negotiate arms reductions. SDI proponents aver that the Soviets would not be willing to negotiate reductions in offensive forces without a compelling reason to do so, and that SDI could be that reason and, in fact, has already motivated them to return to the negotiating table in Geneva.

The Reagan Administration requested $3.722 billion for the SDI program for FY86, compared with an FY85 appropriation level of $1.4 billion. The Senate Armed Services Committee reported its FY86 DOD authorization bill (S. 1160) on April 29 (S.Rept. 99-41) and recommended that funding be cut by $300 million to $3.422 billion. On May 16, however, the committee issued a revised report to make its funding recommendations conform with Senate action on the budget resolution, and another $450 million was removed from the SDI program. Thus, the final figure recommended by the committee was $2.972 billion.

During floor debate on the bill on June 4, the Senate adopted three amendments and rejected six others related to SDI which left the committee-recommended funding level intact.

The House Armed Services Committee recommended a funding level of $2.5 billion for SDI in its report on the House DOD bill (H.R. 1872) on May 10 (H.Rept. 99-81). During floor debate on June 20, the House rejected five amendments that sought to either increase or decrease the authorization level for SDI.

The conference report on the DOD Authorization Act, 1986, recommended an authorization of $2.75 billion for the SDI, leaving the allocation of the reduction to the discretion of the program manager. The conference report adopted some of the provisions in the Senate and House bills related to SDI. Those adopted require certain Presidential certifications prior to any deployment of an SDI system, require a report from the Secretary of Defense on opposing responses to and the cost of SDI deployment, urge the President to continue consultations with NATO, express full support for the ABM and other treaties, and require the Secretary of Defense to study early application of defenses against ballistic missile attacks against U.S. and allied high valued assets.

Regarding FY86 SDI appropriations, in considering the continuing resolution, the House proposed $2.5 billion and the Senate $2.963 billion. The conferees agreed on $2.75 billion for SDI research. They also agreed on the House proposal of $9.222 million for SDI Headquarters Management instead of the $9 million proposed by the Senate. The bill contains provisions proposed by the Senate which, while encouraging allied participation in SDI, prohibit DOD from establishing quotas, goals or funding setasides for offshore vendors, and mandate that, whenever possible, SDI contracts should be awarded to U.S. contractors, on a merit basis. The bill also encourages OTA to continue to study and review the SDI program, and amends a House requirement that an SDI study be conducted by the National Academy of Sciences by instead directing OTA to do it. The study is to include an analysis of the feasibility of meeting SDI computer software requirements. Funds ($700,000) are provided from RDT&E, Defense Agencies, for the study, which is to be submitted to Congress, in both classified and unclassified versions, by Aug. 30, 1987.

LEGISLATION

P.L. 99-62, H.R. 2800

Appropriates $295 million for activities under the Land Remote-Sensing Commercialization Act of 1984. Reported to House from Committee on Science at Technology (H.Rpt. 99-177) June 20, 1985. Passed House June 24 and Senate June 26. Signed into law July 11, 1985.

P.L. 99-145, S. 1160

Authorizes appropriations to the Department of Defense for FY86 (Senate bill includes military construction authorizations; House bill does not). Reported from Senate Armed Services Committee on April 29 (S.Rept. 99-41); reported from House Armed Services Committee on May 10 (H.Rept. 99-81). On May 16, Senate issued amendment to report (no report number, see Congressional Record, May 16, 1985, pp. S6350-2) to conform with Senate action on the budget resolution. Passed Senate June 5 after adopting one amendment concerning the ASAT program and three related to the SDI program, and rejecting several others. House passed amended Senate version in lieu on June 27. Conference reports filed in both Houses on July 29; passed Senate on July 30; passed House Oct. 29. Signed into law Nov. 8, 1985.

P.L. 99-160, H.R. 3038

NASA FY86 appropriations. Reported to House from Committee on Appropriations (H.Rept. 99-212) July 18, 1985. Passed House July 25, 1985. Reported to Senate (S.Rept. 99-129) Aug. 28. Passed Senate Nov. 18. House and Senate agreed to conference report (H.Rept. 99-363) Nov. 13. Signed into law Nov. 25, 1985.

P.L. 99-170, H.R. 1714

Authorizes appropriations to the National Aeronautics and Space Administration for FY86. House bill reported from House Science and Technology Committee on Mar. 28, 1985 (H.Rept. 99-32); passed House April 3. Marked up by Senate Commerce, Science and Transportation Committee on June 13. Reported to Senate from Committee on Commerce, Science, and Transportation with amendment (S.Rept. 99-91) June 27. Passed Senate same day. House and Senate agreed to conference report Nov. 21 (H.Rept. 99-379). Signed into law Dec. 5, 1985.

P.L. 99-173, H.R. 3327

Makes appropriations for military construction for the Department of Defense for FY86. Reported from House Committee on Appropriations (H.Rept. 99-275) Sept. 18, 1985. Passed House (373-36) on Oct. 17. Reported from Senate Committee on Appropriations (S.Rept. 99-158) Oct. 31, agreeing with House action to defer ASAT-related construction. Passed Senate (94-1) Nov. 7. Conference report 99-380 filed in House Nov. 19, and agreed to by voice vote Nov. 20. Senate agreed by voice vote Nov. 22. Signed into law Dec. 10, 1985.

P.L. 99-190, H.J.Res. 465
Makes further continuing appropriations for FY86. Reported from House Committee on Appropriations (H.Rept. 99-403) Nov. 21, 1985; passed House (212-208) on Dec. 4. Reported from Senate Committee on Appropriations Dec. 5; S.Rept. 99-210 filed Dec. 6. Passed Senate (voice vote) Dec. 10. Conference report filed in House Dec. 16. 99-443) and House disagreed (170-239) Dec. 16. A second conference report filed in House (H.Rept. 99-450) and passed (261-137) Dec. 19. Senate agreed (by voice vote) Dec. 19. Signed into law Dec. 19, 1985.

H.R. 1475 (Kramer)
Authorizes the Air Force to acquire a space shuttle orbiter vehicle for use for national security purposes. Introduced Mar. 7, 1985; referred to Committee on Armed Services.

H.R. 3629 (Addabbo)
Makes appropriations for the Department of Defense for FY86. Reported from House Committee on Appropriations (H.Rept. 99-332) Oct. 24, 1985; passed House (359-67) Oct. 30. Reported from Senate Committee on Appropriations (S.Rept. 99-176) Nov. 6 and placed on Senate legislative calendar.

H.Con.Res. 35 (Kramer et al.)
Supports the President's commitment to arms control policies, understandings, and agreements leading to genuine, lasting reductions in nuclear weapons and their delivery systems and the ultimate elimination of such weapons from the world's arsenals (including support for the SDI program). Introduced Jan. 24; referred to the Committees on Armed Services and Foreign Affairs.

H.J.Res. 11 (Kastenmeier)
Calling for a verifiable comprehensive treaty banning the testing, production, deployment, and use of all space-based weapons for use against space, air, or ground targets, and ground-based or air-based weapons for use against satellites and the dismantling of existing weapons systems. Introduced Jan. 3; referred to Committee on Foreign Affairs.

H.J.Res. 252 (G. Brown, Moakley, and Dicks)
Calls on the President to negotiate a treaty providing for strict limitations on space weapons, to reaffirm the commitment of the United States to the ABM treaty, and to seek a mutual moratorium with the Soviet Union on antisatellite testing. Introduced Apr. 24, 1985; referred to House Foreign Affairs Committee.

H.J.Res. 374 (Neal)
Expresses the sense of the Congress that the President should immediately resume negotiations with the Soviet Union and Great Britain on a comprehensive treaty to end the testing of nuclear weapons, including a mutual and verifiable ban on the testing of anti-satellite (ASAT) weapons, and that the President should seek to include in the negotiations all other nuclear and non-nuclear weapons nations. Introduced Sept. 4; referred to Committee on Foreign Affairs.

S. 885 (Kerry et al.)
Establishes a moratorium during FY85 and FY86 on the testing of ASAT weapons against objects in space. Introduced Apr. 3; referred to Committee on Armed Services.

S.Res. 131 (Hart and Kerry)
Expresses the sense of the Senate that the President should, inter alia, maintain a moratorium on testing ASAT weapons unless the Soviets resume such testing or refuse to proceed with further negotiations aimed at such weapons. Introduced Apr. 4; referred to Committee on Foreign Relations.

Patricia Humphlett, Cosmo DiMaggio, and Arthur Manfredi

SOCIAL SERVICES

MLC-072

CHILD NUTRITION ISSUES IN THE 99TH CONGRESS

...reauthorization still pending...

The expiration of six child nutrition programs at the end of FY85, the Administration's proposed changes in child nutrition programs, and the passage of child nutrition and reauthorization bills were the major child nutrition issues in the 1st session of the 99th Congress. The still pending House and Senate reauthorization bills and the passage of the Gramm-Rudman-Hollings Act are likely to influence most child nutrition issues in the 2nd session.

Beginning Oct. 1, 1985, authority expired for the following programs: (1) the special supplemental food program for women, infants, and children (WIC); (2) the commodity supplemental food program (CSFP); (3) the summer food service program; (4) the nutrition education and training program; (5) the State administrative expense program; and (6) the commodity distribution program. However, continuing appropriations for FY86 currently provide funding for child nutrition programs at the current service level. H.R. 7, the School Lunch and Child Nutrition Amendments of 1985, has passed both Houses and would reauthorize all these programs, except CSFP, through FY88. Title XVI of the Food Security Act of 1985, P.L. 99-198, extends CSFP through FY90.

The Administration's FY86 budget proposed three major changes that would have altered the school lunch, school breakfast, and child care food programs by targeting the programs to low-income children and by slowing the rate of spending growth through freezes. The Administration estimated that in FY86 these changes would save nearly $700 million. The Administration also recommended $1.48 billion for the WIC program in FY86. Congress, however, rejected both recommendations in its FY86 agriculture appropriations bill, H.R. 3037, which would maintain child nutrition funding at the current services level and increase WIC by $70 million from FY85 to maintain the current caseload in FY86.

The Gramm-Rudman-Hollings Act (the Balanced Budget and Emergency Deficit Control Act of 1985), P.L. 99-177, is intended to reduce the Federal Budget deficit from $171.9 billion in FY86 to zero in FY91 through a procedure requiring the automatic reduction of funds (sequestration). WIC and the child-nutrition programs (except for special milk) are exempt from the automatic reduction process authorized by the Gramm-Rudman-Hollings Act if budget deficits are not sufficient. This does not mean, however, that these programs are exempt from proposals for budget reductions enacted by Congress to reduce the deficit.

LEGISLATION

P.L. 99-88, H.R. 2577

Makes supplemental appropriations for FY85. Allows school districts that were participating on Jan. 1, 1985 in a pilot project to study alternatives to commodities under the school lunch program to continue to do so through Dec. 31, 1985. The pilot project permits school districts to take cash in lieu of commodities or use letters of credit authorizing them to purchase specific types of food that the USDA would otherwise provide as commodities. Reported to House on May 22, 1985 (H.Rept. 99-142). Passed House as amended on June 12, 1985. Reported to Senate on June 13, 1985 (S.Rept. 99-82). Passed Senate as amended on June 20, 1985. Conference report filed in House on July 29, 1985 (H.Rept. 99-236). Passed both Houses on Aug. 1, 1985. Became P.L. 99-88 on Aug. 15, 1985.

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985. Reduces the Federal Budget deficit from $171.9 billion in FY86 to zero in FY91. WIC and the child nutrition programs (except special milk) are exempt from sequestration. Introduced and passed House on Aug. 1, 1985. Reported to Senate on Sept. 26, 1985 (S.Rept. 99-144). Passed Senate on Oct. 10, 1985. Conference reports filed in House on Nov. 1, 1985 (H.Rept. 99-351) and on Dec. 10, 1985 (H.Rept. 99-433). Passed both Houses on Dec. 11, 1985. Signed by the President on Dec. 12, 1985.

H.R. 7 (Hawkins)

Amends the National School Lunch Act and the Child Nutrition Act of 1966 to extend authorizations through FY88 for certain expiring child nutrition programs. As reported, H.R. 7 would increase overall FY86 funding by $121 million. Sixty million of this amount would be used to increase WIC funding above the Congressional Budget Office current services level of $1.569 billion to $1.629 billion. CBO estimates that this additional $60 million would provide for an increase of approximately 120,000 participants per month. For fiscal years 1987 and 1988, H.R. 7 would authorize such sums as may be necessary for the WIC program. The remaining $61 million would be distributed as follows: (1) $42 million in increased Federal meal subsidies for breakfasts served through the school breakfast program, and the child care food program; (2) $15 million to expand eligibility for the special milk program to kindergartens in schools that are currently ineligible to participate; (3) $3 million to raise the tuition limit on private school participation in child nutrition programs, from the current limit of $1500 to $2500 and adjusting this new amount for inflation; and (4) $1 million for food service equipment assistance. Introduced Jan. 3, 1985. Hearings held Apr. 2, 1985. Substitute ordered reported to Committee on Education and Labor by Subcommittee on Elementary, Secondary and Vocational Education, May 1, 1985. Reported from Committee May 7, 1985 (H.Rept. 99-96). Passed House Sept. 18, 1985. Passed Senate with amendments eliminating cost increase provisions and making other changes on Nov. 22, 1985.

H.R. 3037 (Whitten)

Makes FY86 appropriations for agriculture, rural development, and related agencies. The Committee on Appropriations recommends necessary funding to carry out school lunch and related child nutrition programs at the level provided under current law. It does not include increases proposed in H.R. 7 nor cuts proposed by the Administration. The Committee recommends $1.57 billion for WIC, an increase of $70 million from FY85 levels to maintain the current caseload in FY86. Reported to the House on July 18, 1985 (H.Rept. 99-211). Passed House on July 24, 1985. Reported to the Senate on Sept. 24, 1985 (S.Rept. 99-137). Passed Senate on Oct. 16, 1985. Conference report filed in the House on Dec. 12, 1985 (H.Rept. 99-439).

S.Con.Res. 32 (Domenici)

First Concurrent Resolution on the Budget. The budget resolution finally agreed to by both Houses assumes the House proposal which allows for an increase in child nutrition and food stamps programs of $400 million. This allows for the proposed changes in child nutrition programs under H.R. 7. Reported to Senate from Budget Committee on Mar. 20, 1985 (S.Rept. 99-15). House version reported to House on May 20, 1985 (H.Rept. 99-133, Pt. 1). Passed both Houses on Aug. 1, 1985 (H.Rept. 99-249, Conference).

Susan Schillmoeller and Jean Yavis Jones

TAXATION

MLC-073

TAX REFORM: AN OVERVIEW OF RECENT PROPOSALS

...attempts to reform system...

Numerous bills to reform the Federal income tax system have been introduced in the 99th Congress. Of these, the two legislative proposals which received great attention in early 1985 were the Bradley/Gephardt "Fair Tax Act of 1985" (H.R. 800/S. 409) and the Kemp/Kasten "Fair and Simple Tax Act of 1985" (H.R. 2222/ S. 1006). In addition, President Reagan released his program for tax reform in May 1985.

Hearings have been held in both Houses of Congress on the Bradley/Gephardt and Kemp/Kasten proposals. Extensive hearings on the Administration's proposal were conducted in both the Senate and House during June and July 1985. The Administration's plan, however, has not been introduced as specific legislation.

Each of these three proposals pursues the classic goals of tax reform -- simplicity, equity, and efficiency -- by broadening the tax base for both corporations and individuals, and by lowering corporate and individual tax rates. The proposals differ, however, in the way they do each.

Given the size of the Federal budget deficit, the revenue yield of these three reform proposals is of no small consequence. All three of these proposals are described as being revenue neutral, meaning they are designed to raise the same amount of tax revenues as collected under current law. In fact, it is difficult to ascertain what the actual revenue yields of the proposals would be.

Late in the year, on Dec. 17, 1985, the House passed the "Tax Reform Act of 1985" (H.R. 3838). Passage of this bill marked a significant step in the continuing effort to reform the Federal individual and corporate income tax systems. Throughout the reform process, lawmakers have had to balance the classic goals of tax reform against the difficulties of revising a tax system that has long been used to promote specific social goals.

The trade-offs involved in tax reform are evident when one traces the history of the reform provisions. In November of 1984, the Treasury Department released a comprehensive plan for significant tax base broadening and tax rate reductions in both the individual and corporate sectors. This was followed in May 1985 by the Administration's reform proposal. Although this proposal also called for significant tax rate reductions, the base broadening aspects of the plan were not as comprehensive as those under the original Treasury proposal.

The tax rate reductions in the House bill are similar to those contained in the Treasury and Administration proposals. On the corporate side, the House bill would eliminate many of the current law provisions that tend to distort investment allocation and is comparable in scope and effect to the Administration's plan. On the individual side, however, the base broadening aspects of the bill are more limited than those contained in the two earlier proposals.

LEGISLATION

H.R. 777 (Kemp et al.)/S. 325 (Kasten et al.)

Fair and Simple Tax Act of 1985. Amends the Internal Revenue Code to provide for a flat tax rate on individuals, estates and trusts, and corporate tax payers. Revises income tax provisions by eliminating most credits, deductions, and exclusions. H.R. 777 introduced Jan. 30, 1985; referred to Committee on Ways and Means. Hearings held Mar. 26, 1985. S. 325 introduced Jan. 31, 1985; referred to Committee on Finance

H.R. 800 (Gephardt et al.)/S. 409 (Bradley et al.)

Fair Tax Act of 1985. Amends the Internal Revenue Code to provide for a flat income tax rate on individual and corporate taxpayers. Revises income tax provisions to conform to the flat rate tax scheme. H.R. 800 introduced Jan. 30, 1985; referred to Committee on Ways and Means. S. 409 introduced Feb. 6, 1985; referred to Committee on Finance. Hearings on H.R. 800 held Mar. 26, 1985. Hearings on S. 409 held May 9, 1985.

H.R. 2222 (Kemp et al.)/ S. 1006 (Kasten et al.)

Revised versions of the Fair and Simple Tax Act. H.R. 2222 introduced Apr. 25, 1985; referred to Committee on Ways and Means. S. 1006 introduced Apr. 25, 1985; referred to Committee on Finance. Hearings held May 9, 1985.

H.R. 3838 (Rostenkowski et al.)

Tax Reform Act of 1985. Reduces individual income tax rates and makes certain changes in the individual income tax base. Reduces statutory tax rates for corporations and makes major revisions in the corporate income tax base. Introduced Dec. 3, 1985; referred to Committee on Ways and Means. Reported Dec. 17, 1985 (H.Rept. 99-426). Passed House, amended, December 17. Referred to Senate Committee on Finance Dec. 18, 1985.

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TRADE AND INTERNATIONAL FINANCE

MLC-074

THE CASE FOR AND AGAINST AN IMPORT SURCHARGE

...deficit reduction measure considered...

The United States is now running a deficit of over $100 billion in its foreign trade and the Federal budget is in the red by roughly $200 billion. To deal with these two deficits, Congress is considering a temporary import surcharge.

The most compelling argument for an import surcharge is that it would have a salutary effect on the U.S. economy through reducing the budget deficit. In best case circumstances, a smaller budget deficit might conceivably overwhelm the effect of reduced imports and higher U.S. prices and edge the dollar down. Moreover, an import surcharge is a tax with some political attraction, and thus feasibility, at home.

However, the case against such a tax is strong. It has serious drawbacks from the point of view of trade and foreign policy and, indeed, from the view of avoiding price rises and creating a more efficient tax structure.

The surcharge functions as a tax -- a temporary and declining one. Thus, a central question posed for policymakers is whether there are alternative taxes which do not have the negative economic and political results projected for a tax on imports alone.

For more information on the import surcharge question, please see CRS IB85104, The Case For and Against an Import Surcharge.

LEGISLATION

H.Con.Res. 107 (Rostenkowski et al.)
On Apr. 2, 1985, the House passed a resolution by 349-19 urging the President to take "all appropriate measures" to get Japan to end unfair trade practices. The resolution also placed part of the blame for the U.S. trade deficit on the strong dollar and the budget. Introduced Apr. 2, 1985; referred to Committee on Ways and Means. Reported Apr. 2 (H.Rept. 99-35).

S.Con.Res. 15 (Danforth et al.)
On Mar 28, 1985, by a vote of 92-0, the Senate passed a non-binding resolution requesting the President to take retaliatory trade measures against Japan unless it opened its markets to U.S. goods. Introduced Feb. 20, 1985; referred to Committee on Finance. Reported Mar. 28, 1985, amended and without written report.

S. 1404 (Danforth)
On July 9, 1985, the Senate Finance Committee reported out a bill which "determined" that Japan uses unfair trade practices and requires the President to have them eliminated or to retaliate in 90 days (S.Rept. 99-102). The minimum target is to negate the cumulative impact of the removal of voluntary export controls over autos, suggesting that the President's actions must have a $3 to $4 billion effect on increasing U.S. exports to Japan or decreasing U.S. imports from that country. S. 1404 was introduced July 9, 1985; referred to Committee on Finance.

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MLC-075

JAPAN-U.S. TRADE RELATIONS

...reduction in bilateral deficit unlikely...

Trade relations between the United States and Japan deteriorated during 1985. An escalating bilateral trade deficit, an accumulating series of frustrating negotiations to open Japan's market to U.S. exports, and growing resentment in Tokyo over U.S. pressure, combined to ignite one of the most serious trade confrontations in the postwar era.

None of the issues in the current dispute is new, but they came to a head surprisingly after a congenial meeting between President Reagan and Prime Minister Nakasone, held on Jan. 2, 1985. One outcome of this meeting, where U.S. concerns were raised that American firms do not receive equivalent opportunity in selling to Japan as Japanese firms have in selling to the United States, was the initiation of current negotiations to reduce Japanese trade barriers. Agreement was reached to concentrate on lifting Japanese barriers to sales of telecommunications equipment and services, electronics, forest products, and pharmaceutical medical devices.

Slow progress in these negotiations, particularly telecommunications, prompted an unusually strong congressional response in March and April 1985.

The Senate passed, on Mar. 28, 1985, a resolution that requires the President to retaliate against Japanese imports if Japan does not dramatically open its market; and the House in April passed a more mildly worded resolution calling on the President to act within 90 days to obtain more access to the Japanese market and reduce the trade deficit. A more stringent form of the Senate resolution has been reported out by the Senate Finance Committee and is currently on the Senate calendar. In addition, Democrats in the House and Senate are proposing import surcharge bills that affect Japan. Various other bills directed at Japan have been proposed in both Houses. A real dilemma is that whatever action Japan takes, short of massively curtailing its exports to the United States, a significant reduction in the bilateral deficit is unlikely to occur in the near future.

LEGISLATION

H.R. 1050 (Dingell et al.)
Temporarily restricts auto imports in order to remedy the existing and threatened serious injury to the domestic auto industry. Introduced Feb. 7, 1985; referred to Committees on Energy and Commerce, and Ways and Means. Hearings held Feb. 28, 1985 by Subcommittee on Trade.

H.R. 1060 (Lundine et al.)
Imposes a quota on the number of motor vehicles produced in Japan that may be imported into the United States between Apr. 1, 1985, and Mar. 31, 1986. Terminates such quota 30 legislative days after the recommendations of the Auto Strategy Council are submitted to the Congress and the President. Establishes the Auto Strategy Council to (1) analyze the implication for the future competitiveness of the U.S. auto industry of the removal of quotas on Japanese motor vehicles; (2) develop a strategy to improve the international competitiveness of the U.S. auto industry; and (3) identify the impact of continuation of auto restrictions of Japanese auto imports on other economic sectors and trade with other nations. Requires the Council to make recommendations to the Congress and President by Dec. 31, 1985. Terminates the Council after it makes its report. Introduced Feb. 7, 1985; referred to Committee on Ways and Means. Hearings held Mar. 4, 1985, by Subcommittee on Trade.

H.R. 1892 (Kaptur)
Establishes the Bernard Baruch Trade Fairness Mission to analyze the key product areas that account for the major trade imbalances between the United States and other nations. Limits imports from Japan for a specified period of time. Introduced Apr. 2, 1985; referred to Committee on Ways and Means.

H.R. 1944 (Hillis et al.)
Imposes a surcharge on the importation of Japanese products until such time as the President determines that Japan has made significant progress in eliminating non-tariff barriers. Introduced Apr. 13, 1985; referred to Committee on Ways and Means.

H.R. 2006 (Kaptur)
Imposes quotas on Japanese-made motor vehicles until the United States producers are given equitable and fair access to Japanese markets. Introduced Apr. 4, 1985; referred to Committee on Ways and Means.

H.R. 2015 (Regula et al.)
Authorizes the President to impose tariff surcharges on articles imported from Japan, France or any NATO country if the President determines that the cost of providing such country with defense assistance should be offset by tariff surcharges. Introduced Apr. 4, 1985; referred to Committee on Ways and Means.

H.R. 2037 (Rinaldo)
Requires that the Federal Communications Commission (FCC) establish stringent standards for processing of applications for certification of telephone terminal equipment from countries which discriminate against equivalent American products. Introduced Apr. 15, 1985; referred to Committee on Energy and Commerce.

H.Con.Res. 107 (Rostenkowski et al.)
Expresses the sense of the Congress that the President take action to reduce the growing United States merchandise trade deficit and that he take action to respond to unfair international trade practices of Japan. Introduced Apr. 2, 1985; referred to Committee on Ways and Means. Reported Apr. 2 (H.Rept. 99-35). Passed House Apr. 2, 1985.

S. 942 (Danforth et al.)
Directs the U.S. Trade Representative to (1) identify and analyze trade practices of foreign countries that deny to U.S. telecommunications firms substantially equivalent competitive opportunities; and (2) determine which of such practices denies trade agreement benefits to the United States, is unjustifiable and burdens or restricts U.S. Commerce, or otherwise nullifies or impedes U.S. trade benefits. Directs the President to negotiate trade agreements with such countries or if unable to enter into such an agreement to take other actions to achieve specified negotiating objectives. Introduced Apr. 17, 1985; referred to Committee on Finance. Hearings held May 3, 1985, by the Subcommittee on International Trade. Ordered to be reported by Committee on Finance Sept. 17, 1985. Provisions of S. 720 incorporated in reported measure.

S.Con.Res. 15 (Danforth)
Prohibits ending the voluntary restraint on imports of Japanese automobiles until U.S. exports to Japan are substantially increased and the U.S. trade deficit with Japan is substantially reduced. Passed Senate Mar. 28, 1985, amended.

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IB81011

MLC-076

TEXTILES, APPAREL, AND FOOTWEAR: IMPORT LIMITATIONS

...danger of extinction?...

Bills to reduce apparel and footwear imports to specified limits have been considered in the 99th Congress. One labor union has warned that "America's largest factory employer -- the textile and apparel industry -- is in danger of extinction." By the union's estimate, imports already claim a 50% share of domestic apparel sales. They argue that the industry needs relief from foreign competitors who pay unconscionably low wages and enjoy government export subsidies.

Proponents of free trade counter by warning that import limitations will lead to higher retail prices, a consumer-paid subsidy to the apparel and footwear industries. They argue that the textile and apparel industry already receives considerable protection and that further moves in that direction could result in retaliation which jeopardizes export-oriented American industries.

LEGISLATION

P.L. 99-145, S. 1160
Department of Defense Authorization Act, 1986. Section 1456 requires Secretary of Defense to report annually on the capability of the domestic textile and apparel industries to support defense mobilization requirements. Signed into law Nov. 8, 1985.

H.R. 1562 (Jenkins et al.)/S. 680 (Thurmond et al.)
Textile and Apparel Trade Enforcement Act of 1985. Limits imports of textile and apparel products by establishing country-by-country quotas for every category of these products. Distinguishes three groups of countries: (1) members of the European Economic Community, Canada, and insular U.S. possessions, which are not limited under these bills; (2) "major exporting countries," those which supply more than 1.25% of imported textile and apparel products. These would generally have their shipments cut back in the first year and would be allowed future growth of 1% per year; and (3) other exporting countries (including Mexico despite its greater than 1.25% share). These would generally be allowed a 15% increase in the first year and 6% increase subsequently. H.R. 1562 introduced Mar. 19, 1985; referred to Committee on Ways and Means, Subcommittee on Trade. Reported favorably Sept. 26, 1985 (H.Rept. 99-293). Passed House, amended, on vote of 262-159, Oct. 10, 1985. S. 680 introduced Mar. 19, 1985; referred to Committee on Finance. Committee held hearings July 15, 1985, Sept. 12 and 13. Amended version passed by Senate Nov. 13, 1985 on vote of 60-39, accepted by House Dec. 3, 1985 on vote of 255-161. Vetoed by President Reagan Dec. 17, 1985. House postponed reconsideration until Aug. 6, 1986.

Amendment 1015, offered by Senators Thurmond and Hollings, revises definition of "major producing country" as one supplying more than 10% of all textile and apparel imports rather than 1.25%, thereby reducing their number from 12 to 3. Exempts silk products from limitations under the bill. Treats products of U.S. insular possessions as domestic if certain content requirements are met. Introduces a new title which would restrict nonrubber footwear to 60% of U.S. consumptiom for 8 years. Adopted by Senate as amendment in the nature of a substitute, Nov. 13, 1985.

Amendment 1022, offered by Senator Domenici et al., directs President to negotiate with 10 largest copper producing nations toward obtaining copper production restraint agreements. Attached to H.R. 1562 by voice vote in Senate, Nov. 13, 1985.

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IB84110

MLC-077

TRADE ISSUES IN THE 99TH CONGRESS

...pressures to protect U.S. industries heightened...

The U.S. trade deficit ballooned to $123 billion in 1984, nearly double the 1983 deficit. A trade deficit in excess of $140 billion is predicted for 1985. The deterioration in U.S. trade performance has heightened pressures to protect U.S. industries from rapid incursions of foreign imports, and to open up foreign markets for U.S. exports. The issues and legislation currently under consideration by Congress fall into four interrelated trade areas: (1) changes in U.S. trade law remedies; (2) protection of domestic industry from import competition; (3) increasing market access for U.S. exports; and (4) general approaches to dealing with U.S. trade problems.

LEGISLATION

TRADE REMEDIES

H.R. 1950 (Guarini et al.)/S. 1356 ((Heinz)
Contains provisions to give the Nation's performance in international trade appropriately greater importance in the formulation of government policy, to modernize the remedies available to United States producers regarding unfair and injurious foreign trade practices, and for other purposes. Title I sets forth national trade policy objectives, establishes a procedure for an annual congressional review and provides negotiating authority concerning discriminatory procurement by foreign governments and judicial or administrative decisions by U.S. Government that substantially alter access to the U.S. market. Among other provisions, Title II transfers the administration of various trade laws to the Administering Authority and expands the Presidential power to impose a temporary import surcharge. Title III substantially alters the primary import relief provision, section 201 of the Trade Act of 1974. Title IV provides a mechanism to afford relief from injurious foreign targeting. Title V, among other provisions, expands the scope of actionable domestic subsidies to include natural resource subsidies. H.R. 1950 introduced Apr. 3, 1985; referred to Committee on Energy and Commerce. Hearings held June 26 and Oct. 3, 1985 by Subcommittee on Commerce, Transportation and Tourism. S. 1356 introduced June 26, 1985; referred to Committee on Finance.

H.R. 2451 (Gibbons et al.)
Amends the Tariff Act of 1930 to include in the definition of "subsidy" any resource input subsidy as provided for under the provisions of this Act. Defines the terms "resource input subsidy," "fair market value," and "input use." Introduced May 9, 1985; referred to Committee on Ways and Means. Hearings held May 14 and 15, 1985 by the Subcommittee on Trade. Markup session held and measure forwarded to full Committee Oct. 24, 1985.

H.R. 2809 (Murtha et al.)/S. 1497 (Heinz)
Provides comprehensive reform of the trade laws and for other purposes. H.R. 2809 introduced June 19, 1985; referred to Committee on Ways and Means. S. 1497 introduced July 25, 1985; referred to Committee on Finance. Title I amends the countervailing duty and antidumping statutes. Title II amends section 201 of the Trade Act of 1974. Title III amends section 301 of the Trade Act of 1974 to cover relief from industries targeting. Title IV enumerates various negotiating objectives.

S. 234 (Roth et al.)
Amends the Trade Act of 1974 to change the formulas for determining the amount of and the limitations on trade readjustment allowances. Establishes a Trade Adjustment Assistance Trust Fund within the Treasury. Amends the Internal Revenue Code to tax trade readjustment assistance. Amends the Tariff Act of 1930 to change the requirements for imposing countervailing or antidumping duties. Introduced Jan. 22, 1985; referred to Committee on Finance. Hearings held by Subcommittee on International Trade Sept. 17, 1985.

S. 688 (Heinz et al.)
Amends the Tariff Act of 1930 to provide for the revocation of "country under the agreement" status under specified circumstances. Introduced Mar. 19, 1985; referred to Committee on Finance.

S. 1533 (Byrd)
Amends section 232 of the Trade Expansion Act of 1962 to improve its administration. Introduced Aug. 1, 1985; referred to Committee on Finance.

PROTECTION OF DOMESTIC MARKET

H.R. 1562 (Jenkins et al.)/S. 680 (Thurmond et al.)
Limits imports of textiles and textile products into the United States. Provides for annual adjustments on the growth of such imports. Directs the Secretary of Commerce to establish an import licensing system for such imports. H.R. 1562 introduced Mar. 19, 1985; referred to Committee on Ways and Means. Hearings held Apr. 3 and Apr. 5, 1985 by Subcommittee on Trade.. Subcommittee markup held Sept. 19, 1985. Markup by Committee on Ways and Means held Sept. 26, 1985. Reported Sept. 30 (H.Rept. 99-293). Passed House, amended, Oct. 10, 1985. Passed Senate, amended, Nov. 13, 1985. Vetoed by President Reagan Dec. 17, 1985. S. 680 introduced Mar. 19, 1985; referred to Committee on Finance. Hearings held July 15, 1985 by Subcommittee on International Trade.

H.R. 1973 (Snowe et al.)/S. 848 (Cohen et al.)
Limits the imports of nonrubber footwear. Directs the Secretary of Commerce to allocate the import limitations among foreign countries. H.R. 1973 introduced Apr. 3, 1985; referred to Committee on Ways and Means. S. 848 introduced Apr. 3, 1983; referred to Committee on Finance.

MARKET ACCESS FOR U.S. EXPORTS

H.R. 3131 (Wirth et al.)
Identifies and reduces barriers to, and distortions of, international trade affecting U.S. suppliers of telecommunications equipment and services in interstate and foreign commerce. Introduced July 31, 1985; referred to Committee on Energy and Commerce. Joint hearings by Subcommittee on Telecommunications, Consumer Protection and Finance and Subcommittee on Commerce, Transportation and Tourism held Oct. 1, 1985. Markup session held Oct. 3, and forwarded to full Committee. Markup session held Nov. 21 and ordered to be reported.

S. 728 (Chafee et al.)
Prohibits the importation of Japanese telecommunication products until the Secretary of Commerce and the U.S. Trade Representative certify that U.S. telecommunication products have equal access to Japanese markets. Introduced Mar. 20, 1985; referred to Committee on Finance. Hearings held May 3, 1985 by Subcommittee on International Trade. Provisions incorporated in S. 942, ordered to be reported Sept. 17, 1985.

S. 942 (Danforth et al.)
Directs the U.S. Trade Representative to (1) identify and analyze trade practices of foreign countries that deny to U.S. telecommunications firms substantially equivalent competitive opportunities; and (2) determine which of such practices denies trade agreement benefits to the United States, is unjustifiable and burdens or restricts U.S. Commerce, or otherwise nullifies or impedes U.S. trade benefits. Directs the President to negotiate trade agreements with such countries or if unable to enter into such an agreement to take other actions to achieve specified negotiating objectives. Introduced Apr. 17, 1985; referred to Committee on Finance. Hearings held May 3, 1985 by the Subcommittee on International Trade. Reported, amended, Nov. 26, 1985 (S.Rept. 99-204). Provisions of S. 728 incorporated in reported measure.

S. 1404 (Packwood)
Requires the President to respond to unfair trade practices of Japan. Placed on Senate calendar July 9, 1985. Reported to Senate from Committee on Finance (S.Rept. 99-102).

GENERAL

Import Surcharge

H.R. 3035 (Rostenkowski et al.)
Trade Emergency and Export Promotion Act. Provides a standby import duty on countries with large and inequitable trade surpluses, in addition to other provisions. Introduced July 18, 1985; referred to Committee on Finance. Subcommittee hearings held Sept. 17, 1985.

S. 1449 (Bentsen et al.)
Trade Emergency and Export Promotion Act. Provides a standby import duty on countries with large and inequitable trade surpluses, in addition to other provisions. Introduced July 17, 1985; referred to Committee on Finance.

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IB85164

TRANSPORTATION

MLC-078

CONRAIL

...Senate Commerce Committee reports S. 638...

The Consolidated Rail Corporation (Conrail) is owned by the Federal Government (85%) and Conrail's own employees (15%). The now-profitable railroad is available for sale, under authority established by the Northeast Rail Service Act of 1981 (NERSA) (P.L. 97-35, 95 Stat. 357). That sale cannot be completed without enactment of appropriate legislation.

Senator Danforth's bill to sell Conrail, S. 638, was passed by the Commerce Committee but never voted on by the full Senate. Conrail is the first item on the agenda for the Senate when it reconvenes in January 1986.

The House Energy and Commerce Committee held hearings on Apr. 18, 30, and June 12, 1985, on the proposed sale of Conrail.

The House Ways and Means Committee held hearings on May 1, 1985 on H.R. 1930, dealing with tax aspects of a sale of Conrail to Norfolk Southern Corporation.

Conrail's Chairman, Stanley Crane, has promoted the idea of a public stock offering, in opposition to Secretary of Transportation Dole's proposed sale to Norfolk Southern Corporation.

The investment house Stanley Morgan and Company, on May 14, 1985, presented a proposal to sell Conrail by a public offering of stock which would initially be held by about three dozen investors and later sold to the public with these investors being limited in the total amount of outstanding shares of stock that they would be permitted to hold.

In December 1985, Allen and Co. Inc. and First Boston Corporation submitted a cash bid of $1.65 billion plus other considerations. Secretary Dole has said that other aspects of the offer make it less attractive than the other two bids.

Current developments, and background information, are contained in CRS Issue Brief 84142, frequently updated.

LEGISLATION

H.R. 787 (Edgar et al.)
Allows Conrail to be sold by an offering of common stock to the public. Introduced Jan. 30, 1985; referred to Committee on Energy and Commerce.

H.R. 1449 (Broyhill et al.)
Transfers Conrail to the private sector. Introduced Mar. 6, 1985; referred to Committee on Energy and Commerce.

H.R. 1930 (Rostenkowski et al.)
Addresses tax implications of the sale of Conrail to Norfolk Southern Corporation. Introduced Apr. 3, 1985; referred to Committees on Energy and Commerce, and Ways and Means. Hearings were held May 1, 1985.

H.R. 2873 (Eckart et al.)
Transfers Conrail to the private sector. Introduced June 26, 1985; referred to Committee on Energy and Commerce and Committee on Ways and Means.

H.R. 3047 (Murphy et al.)
Eliminates the requirement that Conrail be sold and requires repayment of some loans made by the United States to Conrail. Introduced July 18, 1985; referred to Committee on Energy and Commerce.

S. 638 (Danforth et al.)
Conrail Sale Amendments of 1985. Permits the sale of Conrail to Norfolk Southern Corporation and brings existing law into conformance with that sale. Introduced Mar. 7, 1985; referred to Committee on Commerce, Science, and Transportation. Markup held Apr. 18, 30, 1985. The Committee voted on Apr. 30, 1985, to report the bill favorably to the full Senate, with amendments. Reported June 27, 1985 (S.Rept. 99-98).

S. 976 (Specter)
Consolidated Rail Corporation Profit Transfer Act of 1985. Requires Conrail profits to be transferred to Amtrak. Introduced Apr. 23, 1983; referred to Committee on Commerce.

S. 1137 (Specter)
Conrail Public Offering Act of 1985. Requires Conrail to be sold by public offering in accordance with a proposal presented by Morgan Stanley and Company on May 14, 1985. Introduced May 15, 1985; referred to Committee on Commerce.

S. 1361 (Specter et al.)
Conrail Public Sale Act. Transfers Conrail to the private sector by public offering of stock. Introduced June 26, 1985; referred to Committee on Commerce, Science and Transportation.

Stephen J Thompson
IB84142

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MLC-079

RAILROAD ECONOMIC REGULATION

...Act might be amended in 1986...

The Staggers Rail Act of 1980 (P.L. 96-448, 96 Stat. 1895, enacted on Oct. 14, 1980) generally is considered the most significant reduction in Federal regulation of railroads since 1887 when Federal regulation of railroads began. Large railroads are happy with how the Act has enabled them to become more like other businesses in the United States, but some short-line railroads, and some shippers of bulk commodities, such as coal, are unhappy. They claim that railroads are not like other businesses because many shippers have access to the tracks of only one railroad.

Hearings were held by the House Judiciary Committee on H.R. 1140, the Railroad Antimonopoly Act of 1985, on July 25 and 27, 1985. Hearings were held by the Senate Judiciary Committee on S. 447, the Railroad Antimonopoly Act of 1985, on Apr. 23, 1985. Another day of hearings was scheduled by the Senate Judiciary Committee on S. 447, but those hearings were postponed and no new date has been set. There is a possibility that the Staggers Act might be amended during the 99th Congress, but no legislation reached the floor of the House or Senate during 1985.

CRS Issue brief IB85017 discusses the Staggers Rail Act of 1980 and interest during the 98th and 99th Congresses in amending rail economic regulation.

LEGISLATION

H.R. 1140 (Seiberling et al.)
Railroad Antimonopoly Act of 1985. Amends the Sherman Act to prohibit a rail carrier from denying to shippers of certain commodities, with intent to monopolize, use of its transportation. Introduced Feb. 29, 1985; referred to Committee on Judiciary. Hearings held June 27, 1985.

H.R. 1190 (Tauzin et al.)
Consumer Rail Equity Act. Enhances rail competition and ensures reasonable rail rates where there is an absence of effective competition. Introduced Feb. 21, 1985; referred to Committee on Energy and Commerce.

S. 447 (De Concini)
Railroad Antimonopoly Act of 1985. Almost identical to H.R. 1140. Introduced Feb. 7, 1985; referred to Committee on Judiciary. Hearings held Apr. 23, 1985.

S. 477 (Andrews et al.)
Consumer Rail Equity Act. Same as H.R. 1190. Introduced Feb. 20, 1985; referred to Committee on Commerce.

Stephen J Thompson
IB85017

MLC-080

TRANSPORTATION OF HAZARDOUS MATERIALS: LAWS, REGULATIONS, AND POLICY

...coordinating governmental efforts...

Hazardous materials are substances which may pose an unreasonable risk to health and safety or property when transported under certain conditions. Common examples include compressed gas transported in cylinders, liquefied natural gas (LNG), liquefied petroleum gas (LPG), cleaning compounds, sulfuric acid, batteries and electrolyte battery fluid, ammonia, phenol, radioactive materials, paint and paint-related compounds, and gasoline. According to the Department of Transportation (DOT), about 4 billion tons of regulated hazardous materials are shipped each year. The National Transportation Safety Board (NTSB) estimates that approximately 250,000 hazardous materials shipments are made every day.

Congress has been and continues to be actively concerned with Federal laws, regulations, and policies which regulate or affect the transportation of these materials. The NTSB, the House Government Operations Committee, and others have identified several major problems with the Department of Transportation's implementation of the Hazardous Materials Transportation Act. However, DOT has recently undertaken major steps to improve its program, such as reorganization, shifting some of its enforcement responsibility to State and local governments, publication of a new emergency response guidebook, and new regulations to promote safety.

Much attention is now focused on the Department's efforts to improve the effectiveness and efficiency of its operations and regulations, to improve Federal-State relationships regarding hazardous materials transportation and various enforcement and training efforts, and to issue regulations affecting the routing of shipments of radioactive materials and hazardous wastes. There is growing concern over the level of Federal financial and manpower resources to assist State and local governments to respond to incidents involving the transportation of hazardous materials, enforce the Federal regulatory code governing this area of commerce.

Paul Rothberg
IB76026

MLC-081

TRUCKING ECONOMIC REGULATION

...Senate holds hearings on Administration bill to deregulate trucking...

On Sept. 27, 1985, the Senate Commerce Committee held hearings on S. 1711, the Administration's bill to deregulate the trucking industry except haulers of household goods. The Secretary of Transportation, Elizabeth Dole, expressed strong support for deregulating trucking at this time. The Chairman and two Commissioners of the Interstate Commerce Commission testified. All three supported that position. The Administration's bill, entitled the Trucking Deregulation Act of 1985, was introduced on the previous day, September 26, by Senator Danforth by request. Representative Moody testified at those hearings in support of trucking deregulation, and, in particular, for the concepts contained in his trucking deregulation bill, H.R. 3222.

Other witnesses testified on S. 1711. The American Trucking Associations, the International Brotherhood of Teamsters, the National Association of State Regulatory Officials, a State Senator and several trucking company spokespersons testified against further deregulation of trucking in general, and against S. 1711 in particular. Most spokespersons for shippers, shipper groups, and some trucking companies, testified in support of further deregulation of trucking and S. 1711. One shipper testified that small shippers are not benefitting as much as large shippers.

The House held oversight hearings on the Motor Carrier Act of 1980 on Nov. 5, 6 and 6, 1985. Representatives Moody and DeLay testified in support of their trucking deregulation bill, H.R. 3222. H.R. 3929, the Administration's trucking deregulation bill, was introduced by request on December 12 by Representative Howard.

Further information on trucking economic regulation is contained in CRS issue brief IB76019.

LEGISLATION

H.R. 3222 (Moody et al.)
National Motor Carrier Productivity and Safety Improvement Act. Reduces ICC regulation, and streamlines State regulation and licensing of trucking. Introduced Aug. 1, 1985; referred to Committee on Public Works and Transportation.

H.R. 3929 (Howard, by request)
See S. 1711.

S. 1124 (Packwood)
Surface Freight Forwarder Deregulation Act of 1985. Eliminates rate and entry controls. Eliminates antitrust immunity to meet and set freight rates. Introduced May 14, 1985; referred to Commerce Committee. Reported from the Committee on July 31, 1985 (S.Rept. 99-120, Calendar No. 264). Passed Senate, amended, Nov. 4, 1985.

S. 1710 (Hollings)
Establishes a Motor Carrier Administration within the Department of Transportation. Introduced Sept. 26, 1985; referred to Committee on Commerce.

S. 1711 (Danforth, by request)/H.R. 3929 (Howard, by request)
Trucking Deregulation Act of 1985. Eliminates most economic regulation of trucking, except for haulers of household goods. Consumer matters to be transferred to the Federal Trade Commission. S. 1711 introduced Sept. 26, 1985; referred to Committee on Commerce. H.R. 3929 introduced Dec. 12, 1985; referred to Committee on Public Works and Transportation.

Stephen J Thompson
IB76019

URBAN AND REGIONAL DEVELOPMENT

MLC-082

THE COMMUNITY AND REGIONAL DEVELOPMENT FUNCTION IN THE FEDERAL BUDGET

...terminate, reduce, or gradually phase out...

The Reagan Administration's FY86 Federal budget proposed to terminate, reduce, or gradually phase out many of the community and regional development programs that are grouped under Function 450 in the Federal budget. For 1986, the Administration requested budget authority of $5.1 billion for community and regional development, a reduction of $2.9 billion from 1985. It seems likely that the FY87 budget will propose cuts that are at least as deep. Independently of the budget proposals, congressional committees are considering issues ranging from program design and allocation procedures to funding levels for many of these programs.

The Reagan Administration consistently has tried to reduce funding levels and terminate Federal programs for community and regional development. The Administration argues that promoting community and regional development is not an appropriate activity for the Federal Government, but should be left to State and local governments and the private sector. In addition, the Administration argues that many of these programs are inefficient, that they inappropriately assist local governments in efforts to compete with other areas to attract private investment, and that State governments are in a sounder state of financial health than the Federal Government and therefore better able to undertake such activities.

The Administration is encouraging the Congress to enact enterprise zone legislation to assist the most distressed communities in undertaking community and regional development activities. This would provide tax relief to businesses locating or expanding their facilities in designated distressed areas. Under the Administration's FY86 plan, enterprise zones and the community development block grant program would be the principal Federal community and regional development tools.

Opponents of the Administration's proposals contend that it is appropriate for the Federal Government to try to overcome the problems that arise from uneven economic development and growth across the United States. Historically, this activity has been justified by a perceived need to make up for varying distribution of resources, an activity that some argue cannot be carried out by the private sector or by other levels of government. Federal community and regional development programs have been designed to redistribute resources among political jurisdictions to ensure that all citizens of the United States, wherever they live, have access to basic public services and to healthy economic and social environments.

Supporters of Federal community and regional development programs also contend that program changes designed to discourage "piracy" of employment opportunities from one location to another, to discourage "overcapacity," and to improve targeting have improved the quality of these programs and have corrected some of the inefficiencies to which the Administration has objected.

During the first session, the 99th Congress considered the configuration of the community and regional development budget function in several contexts, including the budget process, the appropriations process, and the authorization process. The options included terminating some or all of the programs, redesigning the programs, continuing programs through the appropriations process, changing funding levels for the programs, or some combination of these alternatives. As the session ended, new authorizations and program features were enacted for Farmers Home Administration community programs. All other reauthorizations were still pending.

Congressional activity focused on resolving differences in the budget resolutions (S.Con.Res. 32 passed the Senate and the House on Aug.1, 1985); on reauthorizing or terminating the Economic Development Administration and the Appalachian Regional Commission (H.R. 10 was reported to the House May 15; no action has been taken on H.R. 2213, S. 847, S. 880, or S. 1024); reauthorizing FmHA community programs (P.L.99-198), signed Dec. 23, 1985); and on reducing, repealing, or revising the Sec. 312, CDBG, and UDAG programs (H.R. 1 passed the full committee on July 26, 1985; no action taken on H.R. 1870 or S. 667; language in the budget reconciliation measure that would have reauthorized and amended community development and housing programs was dropped during the final days of the first session). Four appropriation bills (H.R. 2959, H.R. 2965, H.R. 3037, and H.R. 3038) to provide funding for a number of community and regional development programs were enacted (P.L.99-141, P.L. 99-160, P.L. 99-180, P.L. 99-190).

All of the programs in Function 450 are subject to cuts in funding under the Balanced Budget and Emerging Deficit Control Act of 1985 (P.L.99-177) (Gramm-Rudman-Hollings). The first targets for such cuts will be set in mid-January, with cuts taking effect in March. If deficits are not sufficiently reduced, deeper cuts are likely in October. In the meantime, it is expected that the Administration will attempt to meet deficit reduction targets through the budget process, largely by reducing or eliminating domestic programs such as these.

In the past, the Congress has continued to support community and regional development programs, although at reduced levels. Only one program, the Regional Action Planning Commissions authorized by Title V of the Public Works and Economic Development Act of 1965, has been terminated.

LEGISLATION

P.L. 99-141, H.R. 2959

Appropriates funds for FY86 for energy and water development. For the Appalachian Regional Commission, appropriates $130 million.

P.L. 99-160, H.R. 3038

Department of Housing and Urban Development -- Independent Agencies Appropriation Act of 1986. Appopriated $3.12 billion for Community Development Block Grants and $330 million for Urban Development Action Grants. Introduced Feb. 20, 1985; referred to House Appropriations Subcommittee on HUD-Independent Agencies. Reported to House (Report no. 99-212) July 18, 1985; passed House, amended, July 25, 1985. Referred to Senate Appropriations Subcommittee on HUD-Independent Agencies July 29, 1985; reported to Senate (Report no. 99-129) Aug. 28, 1985; passed Senate, amended, Oct. 18, 1985. Conference Report 99-363 filed in House Nov. 8, 1985; passed House Nov.13, 1985; passed Senate Nov. 13, 1985. Signed into law Nov. 25, 1985.

P.L. 99-180, H.R. 2965
Appropriates $175 million for the Economic Development Administration. Introduced Feb. 21, 1985; referred to House Appropriations Subcommittee on Departments of Commerce, Justice, State, the Judiciary, and Related Agencies. Reported to House (H.Rept. 99-197) July 11, 1985; passed House July 17, 1985. Referred to Senate Appropriations Subcommittee on Commerce, Justice and State July 18, 1985. Reported to Senate (S.Rept. 99-150) Oct. 4, 1985; passed Senate Nov. 1, 1985. Conference Report no. 99-414 filed in House Dec. 4, 1985; passed House Dec. 5, 1985; passed Senate Dec. 6, 1985. Signed into law Dec. 13, 1985.

P.L. 99-190, H.J.Res. 465
Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1986. The continuing resolution incorporated the provisions of the conference report (H.Rept. 99-493) on H.R. 3037. The following appropriations were made: water and waste disposal loans: $340 million; water and waste disposal grants: $115 million; industrial development loans: $100 million; community facility loans: $100 million. Passed House December 4. Passed Senate, amended, Dec. 10. Conference report 99-443 filed in House Dec. 16. House disagreed with conference report December 16. Conference report 99-450 filed in House December 19. House and Senate agreed to Conference report December 19. Signed into law Dec. 19, 1985.

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XIII (Credit) amends the program authority for FmHA community programs and authorizes the following through FY88: water and waste disposal loans: $340 million; industrial development loans: $250 million; community facility loans: $115 million. Introduced Apr. 17, 1985; referred to House Agriculture Committee. Reported to House (H.Rept. 99-271, Part I) Sept. 13, 1985. Passed House Oct. 8, 1985. Passed Senate, amended, Nov. 23, 1985. Conference report 99-447 filed in House Dec. 17, 1985. Passed House Dec. 18, 1985. Passed Senate Dec. 18, 1985. Signed into law Dec. 23, 1985.

H.R. 1 (Gonzalez)
Amends Title I of the Housing and Community Development Act of 1974 to revise the Community Development Block Grant, Urban Development Action Grants, and related programs. Introduced Jan. 1, 1985; referred to House Banking, Finance, and Urban Affairs Committee. Forwarded to full committee by Subcommittee on Housing and Community Development, June 20, 1985. Reported out of Committee July 26, 1985 (H.Rept. 99-230).

H.R. 10 (Oberstar et al.)
Title II amends the Appalachian Regional Development Act of 1965 to authorize highway programs through fiscal year 1992 and non-highway development programs through fiscal year 1990. Introduced Jan. 3, 1985; referred to House Committees on Banking and Urban Affairs and House Committee on Public Works and Transportation. Reported to the House by the Committee on Public Works and Transportation (H.Rept. 99-115 [Part I], May 15, 1985. Passed House (amended) Sept. 4, 1985.

H.R. 1870 (Wylie)/S. 667 (Garn)
Reduces Community Development Block Grant budget authority by 10%, terminates the Urban Development Action Grant program at at the end of fiscal year 1985, and repeals the Sec. 312 Rehabilitation Loan program; mandates State administration of the Community Development Block Grant nonentitlement program beginning in fiscal year 1986 and increases the percentage of funds allocated to States from 30% to 40%. S. 667 introduced Mar. 14, 1985; referred to Senate Banking, Housing, and Urban Affairs Committee.

H.R. 2213 (Snyder, by request)
Terminates the Economic Development Administration. Introduced Apr. 24, 1985; referred to Committee on Public Works and Transportation.

S. 847 (Rockefeller)
Amends the Appalachian Regional Development Act of 1965 to authorize highway programs through fiscal year 1992 and non-highway development programs through FY88. Introduced Apr. 3, 1985; referred to Senate Committee on Environment and Public Works.

S. 1024 (Humphrey)
Repeals the Appalachian Regional Development Act of 1965. Abolishes the Appalachian Regional Commission. Transfers specified functions under the Act to the Secretaries of Commerce and of Transportation. Introduced Apr. 3, 1985; referred to Committee on Environment and Public Works.

Sandra S. Osbourn and Eugene P. Boyd

MLC-083

ECONOMIC DEVELOPMENT ADMINISTRATION (EDA)

...Administration requests phaseout...

First authorized in 1965 as a successor to the Area Development Administration, the Economic Development Administration (EDA) as an agency of the Department of Commerce administers a variety of programs to assist distressed areas in stimulating their economies and creating jobs for unemployed workers. The program includes grants and loans for public works, business loans and loan guarantees, and planning and technical assistance.

The Reagan Administration recommended a reduction in EDA's budget by more than half in FY81, and total elimination of its development assistance programs since FY82. Congress rescinded $187.8 million of EDA's 1981 funds, rather than the $342.3 million recommended by the Administration. However, while Congress passed an appropriation for EDA, it did not pass a reauthorization for the agency.

Congressional action on EDA covering FY82 through FY85 has followed the above pattern (i.e., the Reagan Administration proposes to terminate EDA assistance programs and to phase out the agency; Congress funds EDA at reduced levels; no congressional reauthorization of the agency is passed). For FY85 EDA assistance programs received a $200 million appropriation. This funding includes $130 million for public works grants, $27 million for planning assistance, $8 million for technical assistance, $2 million for research and development, and $33 million for economic adjustment grants. For FY86, the Administration has again requested a phaseout of EDA programs.

The Administration asserts that its overall economic program (including tax reductions and enterprise zones) is the best way to promote development and job creation in depressed areas. On the other hand, EDA remains very popular with many Members who see economic development assistance programs as being an effective way of aiding depressed areas.

The Senate, in its first budget resolution for FY86, voted to terminate EDA. However, the House in its first budget resolution retained EDA at 10% less funding compared to FY85. The House-Senate conference on the budget agreed to keep EDA but to reduce the agency's budget.

In the FY86 appropriations process, the House proposed to appropriate $180 million for EDA while the Senate proposed to appropriate $160 million. House-Senate conferees compromised on a $175 million appropriation level for EDA in FY86. The House and Senate approved the conference level, and the President signed it into law on Dec. 13, 1985 (P.L. 99-180). The effect of the Gramm-Rudman-Hollings Act (P.L. 99-177) would be to reduce EDA's FY86 budget authority by 4.5% (i.e., $7.9 million).

Meanwhile, several bills have been introduced that would renew the authorization of EDA. Introduced in the House, H.R. 10 would reauthorize EDA for appropriations until FY88. H.R. 10 was reported to the House by the Committee on Public Works and Transportation in May 1985. The House in September 1985 passed H.R. 10 (as amended to reflect the budget resolution reduction) by a vote of 260 to 96. In the Senate, no committee action has been taken on similar EDA authorization legislation.

Also, Congress can be expected to show concern if EDA officials again consider changes in the way they award grants. In 1984 EDA officials considered new selection methods; however, Congress when it allocated FY85 funds, mandated that the agency continue to use its old selection methods.

LEGISLATION

H.R. 10 (Obestar)

National Development Investment Act of 1985. Amends the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965. Introduced Jan. 3, 1985; referred to more than one committee (the Committee on Public Works and Transportation's Economic Development subcommittee, and the Committee on Banking, Finance, and Urban Affairs' Economic Stabilization subcommittee). Hearings held by the Economic Development subcommittee Mar. 21 and 26, 1985. Reported to House (H.Rept. 99-115) by Committee on Public Works and Transportation. Passed House, amended, Sept. 4, 1985. Referred in Senate to Committee on Environment and Public Works.

S. 526 (Mitchell)

Regional Development Act of 1985. Amends the Public Works and Economic Development Act of 1965 to provide more regional development efforts. Introduced Feb. 27, 1985; referred to Committee on Environment and Public Works.

Richard Belous

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ISSUE 5

AUGUST 1986

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Major Legislation of the Congress

Issue No. 5

August 1986

The **Major Legislation of the 99th Congress (MLC)** summarizes major legislative issues before Congress. Written by the analysts, specialists, and senior specialists of the Congressional Research Service, the summaries are for the use of Members of Congress, their staffs, and committee staffs.

Each **MLC** includes at the end of the text a Title Index (an alphabetical list of titles and corresponding **MLC** entry numbers) and a Legislation Index (bill, resolution, and public law numbers, and corresponding **MLC** entry numbers. Almost all of the entries in the **MLC** also note the CRS issue brief from which the entries usually derive.

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Major Legislation of the 99th Congress

AGRICULTURE AND FOOD

MLC-001

AGRICULTURE AND THE 99TH CONGRESS: OVERVIEW

...farm difficulties continue...

OVERVIEW

Difficulties down on the farm have commanded Members' close attention during much of 1986, despite their approval late last year of two important pieces of legislation to bolster the struggling agricultural economy. Lawmakers cleared, in the waning days of the first session, an omnibus farm law (P.L. 99-198) guiding the operation of major farm commodity price supports, expanding Federal export assistance, reauthorizing domestic and foreign food assitance, agricultural research and extension, and modifying other U.S. Department of Agriculture (USDA) activities. They also approved a measure (P.L. 99-205) reorganizing the faltering Farm Credit System, the source of about a third of all agricultural credit.

But Congress had not yet put farm matters to rest. By early March 1986 it had passed two more legislative packages "correcting" portions of the 1985 omnibus agriculture law. Moreover, as the year progressed, Members were expressing mounting concerns about the continuing farm export slump and record program costs. With high carryover stocks from last year and another bumper harvest now underway, storage space is at a premium in many parts of the country. To help deal with the surplus, the Reagan Administration this summer offered expanded options for storage assistance and -- sweeping aside the concerns of some foreign policy interests -- offered subsidies to exporters of wheat to the Soviet Union.

There was little surplus in the Southeast, however, where a severe drought destroyed many crops and cost producers an estimated $2 billion or more in losses. Congress left for its Labor Day recess with several drought aid proposals still pending.

The "farm problem" has challenged policymakers since the Great Depression. The efficient U.S. farmer often produces more than he can sell at home and overseas. Large surpluses hang over markets, depressing prices and incomes. Agriculture has become a victim of its own success -- the advances in science and management that have been boosting the rate of output are also causing wrenching structural changes in the farm sector. In short, fewer farmers seem needed to feed the Nation's population and serve overseas markets, which since a boom in the 1970s have been declining.

Analysts observe that financial troubles are not shared by all producers; a number are still earning a healthy profit. Nevertheless, there is cause for concern -- in part because farmers are the cornerstone of the U.S. food and fiber industry, which accounts for a significant portion of the Gross National Product.

The traditional Govenment programs that have evolved since the 1930s -- everything from commodity price and income supports to subsidized credit -- have been unable to pull agriculture from its current recession. Although the 1985 law, which builds upon those programs, is still relatively new, many farm interests are already urging more drastic measures, ranging from larger export subsidies to mandatory production controls.

Meanwhile, the existing programs are now logging record high costs. Outlays for supports in FY86 are now expected to climb above $25 billion, an unprecedented amount. Therefore, cost concerns could add to the pressure for new farm legislation long before the 1990 expiration of the most recent omnibus law.

FARM CREDIT

Up to a third of all family-sized commercial farmers in 1985 faced severe financial difficulty. The crisis, farm leaders maintained, extended beyond the farm to agricultural suppliers and private lenders, whose financial health is threatened when borrowers cannot repay loans. (Besides commercial lenders, farmers also borrow from the Farm Credit System (FCS) and the so-called lender of last resort, the Federal Farmers Home Administration (FmHA).)

Dissatisfied with the Administration's farm debt adjustment plan announced in September 1984 (and modified in February 1985), many lawmakers pressed ahead with emergency legislation, which they said was needed to help many farmers obtain credit to plant their 1985 crops. The President, on Mar. 6, 1985, vetoed a bill (H.R. 1096) funding African famine relief after farm credit provisions were added by the House and Senate. Congressional pressures apparently did have some impact on Administration policy, however: FmHA FY85 farm lending later reached record levels.

Meanwhile, Congress included a separate title in the 1985 farm law that specifies farm lending levels for the next 3 years, shifts more assistance from direct to guaranteed loans, and creates a new 3-year, $490 million interest rate buydown program for struggling farmers, among other things.

By the spring of 1986, Congress was again considering a boost in FmHA lending levels, as large numbers of farmers flocked to county offices for spring planting loans. By June, the agency had exhausted all of the $2.2 billion available in FY86 for direct loans, and much of its loan guarantee authority as well. Despite this, proposed provisions to expand lending were removed from a supplemental appropriations bill passed in late June, and the momentum for additional credit legislation appeared to diminish by mid-summer.

However, there are renewed concerns about the separate Farm Credit System. Its lenders -- Federal Land Banks, Production Credit Associations, and the like -- have been among the hardest hit by the Nation's farm financial problem. FCS institutions have experienced increased loan losses, borrower complaints about their policies and procedures, and other problems in the past year.

Although privately owned by their borrowers, these institutions were initially capitalized by the Federal Government and operate under Federal charter. In September 1985, Farm Credit Administration (FCA) officials publicly acknowledged severe financial problems in the System and suggested that some type of Federal rescue may be needed within the next 18 to 24 months. Congress responded with "fast track" legislation (P.L. 99-205) to restructure and reform the Farm Credit System and to strengthen the regulatory role of the FCA. Policymakers are watching carefully to judge whether the new law bolsters weak FCS lenders, eases investor concerns, and addresses some borrowers' repayment problems. But, after the system reported on Aug. 7, 1986, a second quarter loss of $762 million, several analysts predicted a Federal bailout might be needed by late 1986 or 1987. (P.L. 99-205 itself provides no money). (For more information, see archived IB84126 -- Farm Financial Situation and Credit Problems: Congressional Concerns; IB86004 -- Farmers Home Administration: Farm Credit Policies and Issues, and archived IB85198 -- Farm Credit System: Legislative Issues.)

COMMODITY PRICE SUPPORT PROGRAMS

USDA's Commodity Credit Corporation (CCC) is required by permanent law to support the production of about a dozen specified commodities, including milk, wheat, feed grains, sugar, cotton, and rice. Three chief tools are used in Federal programs that support commodity prices and incomes. They are (1) nonrecourse loans, which farmers can settle either in cash or by forfeiting their crops; (2) deficiency payments, or direct subsidies, in addition to loans that are based on pre-set target prices; and (3) paid and unpaid acreage reduction programs. (Dairy is supported through direct purchases of cheese, butter, and nonfat dry milk.)

Omnibus farm legislation modifying these commodity programs passed the House on Oct. 8, 1985, by a 282-141 vote and the Senate on Nov. 23, 1985, by a 61-28 vote. Conferees reached agreement on Dec. 14, 1985, on the measure that was ultimately signed by the President (P.L. 99-198).

The farm bill, most analysts agree, is an evolutionary rather than revolutionary adjustment of past farm policies. The Federal Government continues to support every commodity it aided under the previous major farm law of 1981. It uses the same tools, such as nonrecourse loans, deficiency payments, voluntary production controls, and surplus dairy purchases.

Still, Congress did weave some new threads into this basic fabric. Loan rates for the major crops have been lowered significantly in an effort to make them more attractive to private buyers, particularly overseas. (Target prices generally are maintained at current levels and lowered in the future only gradually to protect farmers' incomes.) Lawmakers also attempted to strengthen export programs aimed at regaining overseas markets. A new, untested program paying farmers to leave dairying is also part of the measure. More specifically:

-- Nonrecourse loans for wheat, feed grains, soybeans, cotton, and rice are gradually being lowered to no more than 85% of average market prices (the actual formula varies by commodity, and some rates will have floors). USDA used another option in the law to lower rates more steeply in the first year to make U.S. commodities more price-competitive. The Secretary of Agriculture also is permitted (for cotton and rice, required) to use the so-called "marketing loan" option, which allows loan repayment at less than the original rate.

-- Current target prices are maintained through 1987 for wheat and feed grains and through 1986 for cotton and rice. After that, they can be scaled down gradually each year. The $50,000 annual limit is continued, except that it would not apply for the increased payments that result when USDA exercises its option to make steeper cuts in loan rates; to the effective subsidy provided by the marketing loan; and to several other types of payments.

-- Acreage reduction authority for wheat, feed grains, cotton, and rice continue, with combined mandatory or voluntary diversions (as a condition of price support eligibility) at up to 25% to 30% for wheat, 20% for feed grains, 25% for cotton, and 35% for rice (with additional set-aside authority at Secretarial discretion).

-- A wider use of Payment in Kind (PIK) in lieu of cash to farmers for deficiency and diversion payments, among other uses.

-- Dairy supports are frozen at $11.60 until Jan. 1, 1987, when gradual reductions in the price are authorized to begin. In addition, the Secretary is operating a "whole herd buyout" program under which farmers who bid successfully receive payments to take entire herds out of dairy production; the program is financed by an initial producer assessment of 40 cents per hundredweight.

-- The sugar, wool, and peanut programs generally are extended without major changes; honey support is being reduced gradually.

Is the farm bill stimulating exports, boosting farm income, and cutting surpluses? A February 1986 analysis by the Food and Agricultural Policy Research Institute (FAPRI) of the University of Missouri and Iowa State University suggests that American agriculture will continue to have huge production potential through the end of the decade. Prices for major crops were predicted to drop on domestic and world markets, the result of the bill's lower loan rates and export programs. But exports as well as farm income were not expected to recover rapidly, FAPRI reported.

A number of the FAPRI predictions appear to be holding true, at least so far. U.S. grain prices, for example, have dropped, but exports have not rebounded quickly. Also as predicted, producers of major program crops will be receiving a large share of their income from the Federal Government, which still must make up the difference between what farmers receive on the market (or through the loan program) and the target price. Because target prices were maintained at relatively high levels, net outlays for these programs should remain high for the next several years, FAPRI and other analysts agree.

While disturbed about the continuing high costs of the programs, proponents of the 1985 farm law believe that, given time, it will reverse the decline in exports and eventually enable producers to prosper from the marketplace rather than to rely on the Government for so much of their income. However, numerous critics have already pronounced the new farm policy a failure and are seeking major changes, or at least adjustments, to it. A number of lawmakers have been pressing the Reagan Administration to use its discretionary authority to offer marketing loans for wheat and feed grains, which they believe will more rapidly expand exports (although initially at higher Federal costs).

Others actively are discussing the need for mandatory production controls for major crops -- requiring farmers to take large amounts of land out of cultivation in exchange for higher prices. This option could boost farm income quickly and at minimal cost to taxpayers, they assert. Opponents contend that mandatory controls would cost U.S. producers their export markets and cause major disruptions in the farm sector, among other problems.

To argue their cases, the two sides used the occasion of a required USDA poll on whether or not wheat producers favor a mandatory program. The nonbinding poll was conducted in July, and the Department announced the results in August: a majority (54%) said they favored such a program. However, mandatory program opponents called the poll results inconclusive, noting among other things that just 22% of those eligible had voted. Nevertheless, supporters of mandatory controls said they intended to press ahead with legislation this year or in early 1987 that would require USDA to implement production controls if at least 60% of farmers agreed to them in a binding referendum.

Congress this year already has cleared two separate measures "correcting" the 1985 farm bill -- less than 3 months after its original adoption. The Senate on Jan. 30 and the House on Feb. 4, 1986, passed legislation (S. 2036) easing the more restrictive formula in the 1985 law for determining acreage bases of wheat and feed grains farmers. The bill, signed into law (P.L. 99-253) on Feb. 28, 1986, also effectively lifts a "cross compliance" requirement, under which wheat and feed grains producers would have had to comply with planting restrictions on other crops in order to be eligible for their wheat and feed grains benefits.

The other bill (H.R. 1614), the Food Security Improvements Act of 1986, restricts the planting of nonprogram crops on land diverted for Federal payments, and compensates farmers with USDA surplus commodities if their cash benefits will be cut due to the 1985 law's more restrictive formula for determining crop yields. To offset the cost of these revisions, the law trims the availability of certain export promotion programs. The law (P.L. 99-260), signed Mar. 20, 1986, also alters how the dairy program must meet its cost-cutting obligations under Gramm-Rudman-Hollings.

AGRICULTURE AND THE BUDGET

Federal budget matters are now of major importance to farm and food interests, in part because ongoing attempts to close the gaping deficit have already forced some reductions in agriculture spending. USDA was required to reduce its outlays by 4.3%, or $1.3 billion across-the-board (including $823 million in the major commodity price support programs), in order to comply with the FY86 sequestration process under the Gramm-Rudman-Hollings deficit reduction law. If an FY87 sequestration is required, farm program reductions would be 7.6%, or a total of $2.2 billion (including $1.3 billion from the price support programs), according to August estimates.

However, the Federal budget also has become a priority because of the farm programs' high costs in recent years. The Congressional Budget Office (CBO) in August estimated that outlays for the major commodity price support programs would reach $25.4 billion in FY86 and $21.6 billion in FY87, record levels. When all other Federal agricultural spending -- for research, marketing services, and other activities -- is added, total outlays for agriculture (Function 350) are projected by CBO at $31.7 billion and $25.3 billion in FY86 and FY87, respectively.

These high costs have been tied to a variety of factors, including the continuing farm export decline and the 1985 farm law. The latter lowered loan rates but contained income supports to farmers to make up for the decrease; exempted several types of income supplements from the $50,000 annual payment ceiling (thus enabling some individual producers to receive payments well above the limit); and provided for increased export subsidies, among other things. However, regardless of the reasons for them, the record-high costs could make farm program spending a prime target as lawmakers seek ways to reduce the Federal budget.

Nevertheless, agriculture as of late August 1986 had escaped significant budget reductions under the congressional budget process for FY87. Both the House and Senate in late June had endorsed an FY87 resolution that assumes current policy funding for price supports and related farm income programs, generally freezes other USDA programs at FY86 levels, and allows for a new, unspecified farm credit initiative costing $150 million in the coming year. The resolution sets FY87 budget authority at $23.8 billion and outlays at $23.5 billion for all agriculture activities under Function 350.

Earlier in 1986, the President had proposed a reduction in the Agriculture Department's budget of 18% (measured by outlays). His cutbacks would have been achieved not by changing the major price support programs. Rather, they would have come through stiff reductions in other USDA activities such as farm credit, cooperative extension, rural housing and development, and food assistance; most of these programs have their funding levels set each year through the Department's annual appropriations bill. The President's recommendations were rejected by the House when it approved on July 24 its own version of a FY87 appropriations bill for USDA (H.R. 5177). As of late August, the Senate had not acted on this bill, which would provide about $45.2 billion in new budget authority next year.

Meanwhile, Congress has been forced to enact a series of supplemental FY86 appropriations to replenish the CCC operating account, which cannot borrow more than $25 billion. Congress in past years has provided this money through regular annual USDA appropriations laws, but farmers' extraordinary heavy use of CCC programs recently has forced the corporation to come to Congress more often to keep it solvent. (For more information, see IB86037 -- Agriculture and the Budget.)

AGRICULTURAL TRADE

Following a decade of booming sales, the value of U.S. agricultural exports peaked in FY81 at $43.8 billion (export volume was 162.3 million metric tons, or mmt). Since then, declines have occurred in both export value and volume ($26.5 billion and 108.0 mmt forecast for FY86).

Despite numerous legislative and administrative efforts to halt this slide, U.S. agricultural export levels have continued to fall. For the first time since August 1971, the United States ran a *monthly* agricultural trade deficit this past May (-$152 million). While the *annual* agricultural trade balance continues to be positive -- estimated at $6.0 billion in FY86 -- steady declines in exports, coupled with rising import levels (see below), have significantly cut into what had been a healthly agricultural trade surplus -- exports exceeding imports annually by over $10 billion between 1974 and 1985, and in some years, more than twice that amount.

A number of factors causing the decline have been identified -- the strong dollar, worldwide recession, the debt problems of importing nations, increased foreign production, intensified competition abroad as a result of trade and domestic farm policies of other exporting nations, and the domestic farm policies of this country.

In addition, many in the farm community believe their current export problems are partly due to the effect of the 1980 grain embargo to the Soviet Union on the United States' reputation as a reliable agricultural exporter. Congress discussed this issue last session as part of its debate over the reauthorization of the Export Administration Act (EAA). This legislation, which broadly addresses the President's authority to control all U.S. exports for reasons of national security, foreign policy, and/or short supply, including the use of export controls on agricultural products, was signed into law (P.L. 99-64) on July 12, 1985. Among other provisions, the Act (1) exempts farm exports from national security controls, (2) prohibits the President from voiding existing contracts for a period of 270 days, and (3) requires congressional approval of agricultural embargoes that last more than 60 days.

While most policymakers and analysts agree on the list of reasons for the continual decline in export levels, there has been wide disagreement on how to stop it, a debate that has engaged Congress for several years. With the exception of the EAA debate, activity last session was primarily within the context of the 1985 farm bill debate. In addition to lowering price supports on major export commodities to make these products more price-competitive in world markets, the farm act also contains a comprehensive trade title designed to boost sagging export levels.

The trade title of the 1985 farm act, as amended by the Food Security Improvements Act of 1986 (P.L. 99-260), requires at least $5 billion annually in short-term (6 to 36 months) credit guarantees; sets a minimum of $500 million annually in FY86-88 and a maximum of $1 billion in FY89 for intermediate credit guarantees (3 to 10 years); mandates the export sale of at least 150,000 tons of CCC dairy products annually; mandates $110 million in FY86-88 and $325 million in FY89-90 in cash or surplus commodities for a targeted export assistance program; and mandates a minimum of $1 billion in surplus CCC commodities for FY86-88 for an export payment-in-kind program whereby these Government-owned commodities are combined with commercial sales to make the overall package more attractive to foreign purchasers.

The 1985 farm act also contains a cargo preference compromise which exempts *commercial* USDA export programs from the requirement that 50% of these Government-assisted shipments move on more costly U.S. ships, while increasing the percentage of *concessional*, or food aid, shipments subject to cargo preference. A funding compromise between the USDA and Department of Transportation, which administers cargo preference programs, remains unsettled. (For further information, see IB85139 -- Cargo Preference and Agriculture: Current Issues).

The Administration and others have been urging lawmakers to allow sufficient time for the new legislation to work. They point out that the new farm law's lower, more competitive, loan rate for wheat, which went just into effect June 1, has already boosted wheat export levels substantially and that the lower corn loan rate will not even be effective until September 1. (Many purchasers had delayed buying U.S. grains, waiting for the lower prices.) Over the long term (the next 10 years), the USDA projects annual export growth at about 4 to 5%, about half the rate of the 1970s.

Nevertheless, concerns that the new laws will not be effective enough or will work too slowly have perpetuated the farm trade debate into this session. A number of bills containing new initiatives to expand sales of agricultural commodities abroad have been introduced, an omnibus trade bill (H.R. 4800) with an agricultural title passed the House in May, and lawmakers have been intensifying their pressure on the Administration to more fully utilize its discretionary authority in the 1985 farm act to boost export levels. Moreover, there is increasing speculation that unless export levels rebound soon, Congress will take up omnibus farm legislation next session.

The Reagan Administration, along with many Members of Congress, is also looking to a new round of negotiations under the General Agreement on Tariffs and Trade (GATT) to ease current trade tensions and to strengthen international agricultural trading rules in hopes of expanding world agricultural trade levels. An agenda and starting date for the new round of negotiations is expected to be set this September in Uruguay at a meeting of trade ministers of the GATT member nations. The actual negotiations will likely begin in early 1987. Congress must pass legislation before the United States can fully participate in a new round. Such legislation is currently pending. (For further information, see Upcoming World Trade Talks: What's At Stake For U.S. Agriculture, 86-803 ENR, July 28, 1986.)

One likely point of GATT discussion could be the 1985 farm law itself, which has come under severe criticism from a number of countries, most notably Australia, Argentina, Thailand, and Canada, which are not only major competitors but also strategic allies of the United States. Thailand, for example, is particularly critical of the marketing loan on rice, which it alleges has unfairly depressed world prices and displaced Thai export sales. Under this special program, U.S. farmers are allowed to repay their loans at less than the full amount they borrowed from the Government, be credited with full repayment, keep their commodities and still profitably market them at at a lower price.

This marketing loan program is mandatory for rice and cotton, and discretionary for wheat and feed grains. The success of the program in boosting rice and cotton exports (according to the Aug. 11, 1986, Wall Street Journal, export orders for this year's rice and cotton crops are running 35% and 156% ahead, respectively, of year-earlier levels) has prompted congressional pressure on the Administration to extend the marketing loan to wheat, feed grains, and soybeans. Administration officials have repeatedly ruled out extending the program, citing its questionable cost-effectiveness: USDA estimates the cost of a 2-year marketing loan for wheat, feed grains, and soybeans to be between $2.6 and $3.2 billion.

Competitor countries have also been extremely vocal in their criticism of the United States' export PIK program -- the Export Enhancement Program -- which the USDA has operated since mid-May 1985 in response to heavy congressional and farm community interest in such a program. USDA's implementation of the EEP, however, came under considerable criticism, primarily because it excludes traditional purchasers of U.S. farm commodities -- the program has been targeted mainly to those countries that traditionally buy from the European Community. While Congress subsequently mandated a $1 billion, 3-year (FY86-88) export PIK program in the 1985 farm law, as amended, did not mandate an across-the-board subsidy program, despite considerable debate on the issue.

Pressure to open the program to traditional purchasers of U.S. farm products has continued throughout the second session. A number of bills have been introduced, several hearings held, and the House's omnibus trade legislation (H.R. 4800) contains a provision to open up the EEP to traditional customers. Also, the Export-Import Bank reauthorization bill (H.R. 4510), which the Senate cleared on July 22, was amended by Senate Majority Leader Dole and 17 other sponsors to open the EEP to all traditional purchasers of U.S. farm commodities through Sept. 30, 1986.

In response to such pressures, and despite advice of his foreign policy analysts, President Reagan announced on August 1 that the Soviet Union would be eligible to receive subsidized wheat under the Export Enhancement Program, but only through Sept. 30, 1986. Moreover, this offer applies only to the 4 million metric tons of wheat that the Soviets had previously committed to buy under the U.S.-U.S.S.R. grain supply agreement.

Charging that the President's action was too limited, the House Agriculture Committee the following day reported out a measure (H.R. 5242) requiring the Secretary of Agriculture to open the EEP to traditional purchasers of U.S. farm products, with some qualifications, through Sept. 30, 1988. Efforts to move the bill quickly to the floor failed following an unfavorable report by the House Foreign Affairs Committee, which remains concerned about the potential foreign policy implications of the subsidy program.

While U.S. agricultural exports have been declining since the early 1980s, agricultural imports have been rising steadily over the past few years and will reach a record $20.5 billion this year. These increases have been fueled largely by the strong dollar, which makes some imported commodities less expensive for U.S. consumers as well as by recent increases in the price of some imported commodities, most notably coffee. In addition, a number of agricultural imports have been unfairly subsidized by exporting countries, according to some U.S. agricultural interests. Producer pressure to protect U.S. agriculture from growing import competition has correspondingly increased, especially in light of the problems that continue to plague that sector. Agricultural interests have filed a record number of petitions for import relief with the International Trade Commission (ITC) over the past few years. The Commission (and in certain cases, the USDA) has considered import relief measures for such commodities as pork and live hogs, wine, potatoes, frozen orange juice concentrate, mushrooms, sugar and tobacco.

The Administration and many Members of Congress have generally resisted protectionist pressures, arguing that imports benefit consumers by providing them with a variety of products, often at lower cost, while forcing domestic producers to remain competitive. They also argue that protectionism at home will ultimately harm our export position since trade is always a two-way street. Denials of import relief for some agricultural products by the Administration, in conjunction with a controversial decision by the ITC to grant relief from imported Canadian hogs, but not pork, resulted in a number of legislative proposals last session to provide agricultural producers increased protection from imports. They included legislation to label imported meat, to restrict casein (milk protein product) imports, to restrict unmanufactured tobacco imports, to restrict imports of tobacco grown or produced using chemicals prohibited in the United States, and to levy a surtax, triggered by economic injury, on fresh vegetable imports.

In response to this growing protectionist sentiment on Capitol Hill, President Reagan announced a series of initiatives during 1985 and 1986 designed to more vigorously pursue the unfair trading practices of U.S. trading partners. These include initiating an ITC Section 201 investigation into the effects of apple juice imports on the domestic industry (Section 201 provides the President authority to institute protective tariffs against imports that are found to be severely injuring a domestic industry) and imposing import tariffs on Canadian cedar shakes and shingles last May under Section 201 authority.

Despite these actions, Congress has continued to consider import relief legislation. However, it has focused its attention this session on broader, more comprehensive trade legislation -- the House-passed H.R. 4800 -- that is generic, rather than industry-specific, in its approach to revising U.S. trade policies. The Senate is expected to take up its trade package this fall. Among other provisions, the House bill restricts the President's discretion in certain import relief decisions, requires him to retaliate against certain trade practices, and expands the types of foreign trading practices that could prompt U.S. retaliation. President Reagan has vowed to veto the bill unless it is substantially reformed.

FOOD AID

Large agricultural commodity surpluses in the United States and widespread drought, famine, and starvation in sub-Saharan Africa during 1984-85 focused considerable attention on U.S. foreign food aid programs, especially the largest of these programs, the Food for Peace Program, also known as P.L. 480, the Agricultural Trade Development and Assistance Act of 1954. Authority for P.L. 480, contained in the Agriculture and Food Act of 1981, as amended, was renewed and revised in the Food Security Act of 1985.

Among other provisions, the foreign food aid title of the new agricultural legislation extends P.L. 480 through 1990; requires that at least 75% of donated shipments be processed, fortified, or bagged; and authorizes a new Food for Progress program that ties food aid to local agricultural policy reform and private sector development.

Congress has also focused on funding levels for food aid. In addition to approving $1.35 billion for food aid in FY85, Congress also passed an FY84 supplemental appropriation that provided an added $150 million for African food aid and an FY85 supplemental appropriation (P.L. 99-10) increased funding levels for African food donations and for "international disaster assistance¢, monies earmarked for internal transportation, and monies reserved for an "Emergency Reserve for African Famine Relief."

Funding for African famine relief has gotten caught up in a controversial military and economic Central American aid package (H.R.5052), passed by the House on June 25 and the Senate on Aug. 13, 1986. This FY87 military construction appropriation bill was amended by the House to include $100 million in military and economic assistance to the "contras" in Nicaragua as well as $300 million in economic aid to Costa Rica, El Salvador, Guatemala, and Honduras. The $300 million is to come from unspent foreign aid accounts. The Administration has stated that at least $200 million of the unused $225 million funding for African famine relief will be used. Agricultural interests, led by Senator Melcher, have opposed tapping food aid accounts for Central American economic relief, arguing that these funds could be used to boost sagging export levels. An amendment to the Senate bill by Senator Melcher disallowing the President to tap that account for these purposes was tabled 51-49. However, a Senate Appropriations Committee amendment to the bill effectively restores about $75 million in funding for African famine relief. The aid legislation will go to conference in September.

CONSERVATION

Conservation of soil and water resources has been a farm policy issue for more than 50 years. The U.S. Department of Agriculture has been given responsibility for 26 programs to address conservation needs, whether ongoing ones or new problems.

Today's proponents of an enhanced soil conservation effort believe that currently high erosion rates are slowly destroying U.S. cropland and contributing to water quality problems. The Administration, on the other hand, has called for significant reductions in the conservation budget, arguing that current programs have provided little long-term benefits in light of their costs.

Programs to discourage farming on erosion-prone land were folded into the omnibus farm bill. One provision included is the so-called "sodbuster" proposal that prohibits many Federal farm benefits to those planting on fragile lands and failing to follow approved conservation plans. The law also expands the sodbuster concept to "swampbusters" since most wetland conversions are for farming.

Another provision establishes a long-term acreage conservation reserve, offering farmers financial incentives to take erosion-prone lands out of production for multi-year periods. Some 40-45 million acres of fragile land could be brought into the reserve in coming years. However, enrollments under two initial signups, some for 1986 and others for 1987, have brought only about 3.8 million acres in, short of Congress' first-year goal alone of 5 million acres. A third signup was underway in August 1986.

(Additional conservation provisions are also in the bill. For more information, see IB86025 -- Soil Conservation Issues in 1986.)

SOUTHEASTERN DROUGHT

Both the Administration and Congress took steps during the summer of 1986 to aid victims of the severe drought extending through much of the Southeast.

With the exception of peanuts and broilers, the extreme heat and dryness there were expected to have little effect on farm production nationally. Nevertheless, State officials had by early August estimated that farmers had already lost $2 billion, a figure they expected to increase with time.

The Reagan Administration declared numerous counties in the region disaster areas, making them eligible for an array of Federal disaster assistance programs. The Administration also announced an expansion of its current programs to aid victims, offering livestock producers up to half the cost of emergency feed (with USDA's share in surplus commodity vouchers), enabling feed grain program participants to receive more of their 1986 crop deficiency payments in advance, and other things. Meanwhile, the House unanimously passed on August 6 its own $530 million drought aid package (H.R. 5288) that would require the Department to take out a number of the actions it already has discretionary authority to implement. A similar package was attached to an August 1 Senate bill (H.J.Res. 668) raising the national debt. Presumably, the House and Senate versions will be reconciled in a conference after the Labor Day recess.

COMMODITY FUTURES

The Senate and House Agriculture Committees this spring reported separate but similar bills (S. 2045; H.R. 4613) reauthorizing the expiring Commodity Futures Trading Commission (CFTC). The House version was cleared by that body on July 16. The CFTC regulates the commodity futures industry; since nearly one-quarter of the 159 million contracts traded in 1985 were for agricultural commodities, the Commission's activities have an important albeit indirect impact upon farmers. A new marketing instrument -- trading options on futures contracts for agricultural commodities -- was resumed in a 1983 pilot program after having been banned for decades. The 3-year House bill and 6-year Senate version would make the pilot program a regular trading device.

The House measure requires an Agriculture Committee study of the impact of cattle futures trading on the beef industry. The panel has already announced its intention to conduct such a study.

LEGISLATION

FARM CREDIT

P.L. 99-198, H.R. 2100

Food Security Act of 1985. Title XIII reauthorizes and revises FmHA's farm and rural development program lending levels for FY86-FY88. The law also establishes a new 3-year, $490 million interest rate "buydown" program for FmHA guaranteed loans and spells out guidelines for disposing of farm properties acquired by FmHA through defaults, among other provisions. Introduced Apr. 17, 1985; referred to Committee on Agriculture. Amended and reported Sept. 13 (H.Rept. 99-271, Part 1). Passed House as amended on Oct. 8, 1985. Senate on Nov. 23, 1985, passed its own version of H.R. 2100 in lieu of the original bill (S. 1714, S.Rept. 99-145) reported Sept. 30, 1985, by Senate Agriculture Committee. Conference report (H.Rept. 99-447) filed Dec. 17 and agreed to by House Dec. 18, 1985. Signed into law Dec. 23, 1985.

P.L. 99-205, S. 1884

Farm Credit Amendments Act of 1985. Amends the Farm Credit Act of 1971 to restructure FCA and to expand the regulatory functions it exercises; to create a Farm Credit System Capital Corporation (FCSCC) to redistribute capital among FCS institutions to those lenders in need of financial assistance; and to purchase, restructure existing loans, and to sell FCS assets. Introduced Nov. 22, 1985; referred to Committee on Agriculture, Nutrition, and Forestry. By unanimous consent, the Senate discharged the committee from further consideration on Dec. 3. Passed Senate, amended, Dec. 3. Considered by House under suspension of rules Dec. 10. Passed House, amended, Dec. 10 (in lieu of companion measure H.R. 3792). Senate agreed to House amendment with a further amendment by voice vote Dec. 17; House agreed to Senate amendments by voice vote same date. Signed into law Dec. 23, 1985.

H.R. 1096 (Weiss)

Title II, the Emergency Farm Credit Assistance Act of 1985, (1) establishes $100 million for FmHA interest reduction payments to lenders who restructure troubled farm debts; (2) authorizes an additional $1.85 billion in operating and ownership loan guarantees in FY85 to implement the debt adjustment program; (3) encourages changes in banking regulatory procedures to guard against untimely farm foreclosures, among other things. Title III, the Advance Recourse Loan Act of 1985, allows USDA to advance 100% of the price support loan rate, up to $50,000, for half of a farmer's estimated production.

Title II introduced Feb. 25, 1985, and Title III introduced as amendment on Feb. 27, during Senate floor debate as amendments to S. 457, African famine relief bill. Senate incorporated S. 457, along with Title II and III amendments, into H.R. 1096, House bill for famine relief. House agreed to Senate changes and cleared the measure for President on Mar. 5. President vetoed H.R. 1096 Mar. 6, 1985.

COMMODITY PRICE SUPPORT PROGRAMS

P.L. 99-198, H.R. 2100

Titles I-IX extend and modify price and income support programs for dairy, wheat, feed grains, soybeans, wool, sugar, peanuts, and cotton. Other titles address credit, soil conservation, agricultural marketing, domestic food asistance, agricultural research and extension, and other farm and food issues. For legislative history, see Credit, P.L. 99-198, above.

P.L. 99-253, S. 2036 (Dole)

Corrects sections of the Food Security Act of 1985 pertaining to acreage bases and crop cross compliance. Introduced and passed in the Senate Jan. 30, 1986. Called up by the House and passed under suspension of rules Feb. 4, 1986. Signed into law Feb. 28, 1986.

P.L. 99-260, H.R. 1614

The Food Security Improvements Act of 1986. Amends the Agricultural Act of 1949 regarding: (1) nonprogram crops planted on underplanted acreage; (2) farm program payment yields, authorizing additional price support payments in commodity form; (3) haying and grazing programs; (4) dairy assessment increases to count toward meeting Gramm-Rudman cuts; and (5) funding decreases for targeted export assistance and foreign market development. This law combined provisions from a number of bills introduced in the House in January and February 1986. The House Agriculture Committee ordered reported relevant bills, H.R. 4105 and H.R. 4079 , on Feb. 26, 1986. Both bills were referred to the Committee on Appropriations on March 3 and were discharged on April 9. The actual vehicle for passage came from the Senate which used a bill already passed by the House in 1985 – H.R. 1614. On March 6, Senator Dole introduced S. 2143 containing a number of provisions to revise the 1985 farm act. Following amendments, the language was incorporated into H.R. 1614, which was then passed by voice vote. The House agreed to the Senate amendments by a vote of 283-97 also on March 6. Signed into law on Mar. 20, 1986.

S. 616 (Helms)

Extends and modifies price and income support programs for major agricultural commodities; includes separate titles dealing with food aid and agricultural exports, domestic food assistance, soil conservation, farm credit, agricultural marketing, agricultural research and extension, and other issues. Introduced Mar. 7, 1985; referred to Committee on Agriculture. Reported as an original bill (S. 1714) on Sept. 30, 1985 (S.Rept. 99-145). For subsequent legislative history, see Farm Credit, P.L. 99-198, above.

S. 1714 (Helms)

See S. 616 and P.L. 99-198 above.

S. 2143 (Helms)

Modifies sections of the Food Security Act of 1985 pertaining to crop yields, plantings on diverted acreage, and export assistance; alters dairy program's compliance with Gramm-Rudman-Hollings sequestration, among other things. Introduced and passed in the Senate March 5; text folded into H.R. 1614, which was passed in lieu of S. 2143 on Mar. 6, 1986. House adopted Senate version of H.R. 1614 on same day.

AGRICULTURAL TRADE

P.L. 99-64, H.R. 1786/S. 883

Export Administration Act Amendments of 1985. H.R. 1786 replaced H.R. 28 (Roth) in Foreign Affairs Committee markup Mar. 28, 1985. Committee marked up and reported measure Apr. 3, 1985. Passed House and was incorporated into S. 883, as an amendment Apr. 16, 1985. S. 883, *extending* the EAA of 1979, was introduced, considered, and passed without amendment by the Senate Apr. 3, 1985. Senate disagreed to House amendments of S. 883 by voice vote and appointed conferees May 3. House insisted on its amendments by unanimous consent, agreed to conference, and appointed conferees June 20. Conference held, package agreed to June 25. Measure passed House and Senate June 27. Signed into law July 12, 1985.

P.L. 99-198, H.R. 2100

Food Security Act of 1985. Title XI authorizes an export PIK program; mandates minimum funding levels for short and intermediate term export credit guarantees; and mandates that at least $325 million be spent annually in cash or in surplus commodities for direct export subsidies to counter unfair trading practices of other countries, among other provisions. For legislative history, see Credit, P.L. 99-198, above.

P.L. 99-260, H.R. 1614

The Food Security Improvements Act of 1986. (See Commodity Price Support Programs, above.)

H.R. 4510

Reauthorizes the Export-Import Bank through FY88. A Senate amendment makes traditional purchasers of U.S. agricultural commodities eligible for bonus commodities under the export enhancement program through Sept. 30, 1986. Introduced Mar. 25, 1986; referred to Committee on Banking, Finance and Urban Affairs. Reported to the House with amendments on May 5 (H.Rept. 99-578). Passed the House on July 17 and the Senate, amended, in lieu of S. 2247 on July 22, 1986.

H.R. 4800 (Wright)

Comprehensive Trade Policy Reform Act of 1986. Enhances the competitiveness of American industry by requiring retaliation against certain foreign trade practices, tightening the limits on the President's discretion in carrying out trade policy, revising import relief procedures, and providing authority for the United States to participate in a new round of trade negotiations. Introduced May 9, 1986; referred to Committees on Ways and Means; Agriculture; Banking, Finance and Urban Affairs; Education and Labor; Foreign Affairs; and Energy and Commerce. Prior to assigning the measure a bill number, the House Agriculture Committee on May 8 approved a package of amendments for inclusion in the omnibus measure. These amendments included reorganizing parts of the U.S. Department of Agriculture to make that agency more effective in promoting exports; protecting the quality of U.S. grain; and broadening the export bonus program to give priority to traditional buyers of U.S. farm products. The Rules Committee Resolution, H.Res. 456, providing for consideration of H.R. 4800, was reported to the House May 15, 1986 (H.Rept. 99-604).

H.R. 5242

Requires the Secretary of Agriculture, through FY88, to permit participation in the export enhancement program of those countries that (1) have traditionally purchased U.S. farm commodities, (2) maintain trade relations with the United States, and (3) comply with minimum purchase requirements under long-term supply agreements. Introduced July 24, 1986; referred to House Committee on Foreign Affairs and Committee on Agriculture, Subcommittee on Department Operations, Research and Foreign Agriculture. Subcommittee hearings held, July 29. Reported out of the full Agriculture Committee, amended, July 30 (H.Rept. 99-736, Part I). House Foreign Affairs Committee reported the measure, as amended, unfavorably, Aug. 5, 1986.

S. 1860 (Danforth)
Amends the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, and to change the procedures in import relief investigations, among other provisions. Introduced Nov. 20, 1985; referred to Committee on Finance. Hearings held May 14-15, 1986.

FOOD AID -- P.L. 480

P.L. 99-10, H.R. 1239
Provides supplemental appropriations for FY85 for Title II of P.L. 480 for additional food donations to Africa, as well as increased funding for international disaster assistance; earmarks monies for inland transportation; and reserves monies for an "Emergency Reserve for African Famine Relief, among other provisions. Reported out of the House Committee on Appropriations as an original measure Feb. 21, 1985 (H.Rept. 99-2). Passed House by voice vote Feb. 28, 1985. Reported out of Senate Committee on Appropriations with amendments, Mar. 5, 1985 (S.Rept. 99-8). Passed Senate with amendments, 98-1, Mar. 20, 1985. House disagreed to Senate amendments by unanimous consent, Mar. 27, 1985. Conference held; House and Senate agreed to conference report Apr. 2, 1985. Signed into law Apr. 4, 1985.

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XI reauthorizes P.L. 480 (Food for Peace) through 1990; sets new minimum levels for overseas donations; and establishes a new "Food for Progress" program, among other provisions. For legislative history, see Credit, P.L. 99-198.

H.R. 5052
Appropriates funds for military construction by the Department of Defense for FY86. Amended to provide funds for military and economic assistance to the contras as well as funds for economic aid to selected Central American countries. Reported to the House from the Committee on Appropriations, June 19, 1986 (H.Rept. 99-648). Passed the House, as amended, June 25. Referred to the Senate Committee on Appropriations July 14. Reported to the Senate with amendment, Aug. 5 (S.Rept. 99-368). Considered in the Senate Aug. 9, 11-13, and passed Aug. 13, 1986.

CONSERVATION

P.L. 99-198, H.R. 2100
Conservation title (Title XII) of omnibus bill bans most farm program benefits to farmers who plant on highly erodible land; another section establishes long-term conservation reserve offering rental payments, cost-sharing, and technical assistance to farmers who place erodible land in less intensive uses. Introduced as H.R. 2108 by Representative Ed Jones on Apr. 18, 1985; referred to House Agriculture Committee. Panel's Subcommittee on Conservation, Credit, and Rural Development on Apr. 23 approved bill, with modifications. Full committee incorporated S. 2108, with amendments, into omnibus farm bill (H.R. 2100). See Credit section, P.L. 99-198 (above) for subsequent legislative actions.

S. 616 (Helms)
Conservation title of omnibus bill, as modified by committee, contains provisions similar (but not identical) to those in H.R. 2100. S. 616 introduced Mar. 7, 1985; referred to Committee on Agriculture. Provisions approved by committee in July. Bill reported as original measure (S. 1714, S.Rept. 99-145) on Sept. 30, 1985. See Credit section, P.L. 99-198 (above) for subsequent legislative actions.

COMMODITY FUTURES

S. 2045 (Helms)
Reauthorizes CFTC through 1992. Introduced Feb. 4, 1986; referred to Senate Agriculture Committee, which reported an amended version Apr. 29, 1986 (S.Rept. 99-291).

H.R. 4613 (de la Garza)
Reauthorizes CFTC through 1989. Introduced Apr. 17, 1986; referred to House Agriculture Committee. Marked up by panel's Subcommittee on Conservation, Credit and Rural Development Apr. 22, 1986; reported by full committee May 7, 1986 (H.Rept. 99-624). Passed House July 16, 1986.

Geoffrey Becker and Penelope Cate

MLC-002

FOOD SAFETY POLICY: SCIENTIFIC AND REGULATORY ISSUES

...efforts to modify the anti-cancer provisions of food safety law...

On several occasions in the past 30 years Congress has considered the overhaul and update of U.S. food safety laws and regulations. While early in this century the lack of sanitation standards provoked Federal establishment of food safety regulations, recent attention has focused on the health effects of chronic consumption of such food constituents as food additives, and drug and pesticide residues. This recent focus stems from an increased concern about changes in the food supply, including the widespread use of chemical preservatives and coloring agents, the use of growth-stimulating drugs in food-producing animals, the large-scale application of pesticides and the resultant residues, and other environmental contaminants in food commodities. In addition, technological advances have enabled scientists to measure quantities of chemicals in foods that were previously undetectable.

Approximately 1,100 food additives and 40 color additives are regulated for direct addition to food under requirements of the Federal Food, Drug and Cosmetics Act (FDCA), as amended. The safety and anti-cancer Delaney clauses in the Act require FDA to ban from commerce any food or color additive or animal drug found to cause cancer in animals or humans or to be otherwise harmful to health. However, the law permits small amounts of certain classes of contaminants to exist in food, if the substances are unavoidable or necessary in the production of food. Inconsistencies in the law, scientific advances, scientific uncertainty and societal pressure to allow the continued use of some substances that would otherwise be banned under current law have been arguments for the reevaluation of the existing food safety laws.

The controversy over current law has been most pronounced for substances subject to the Delaney clause. The artificial sweetner, saccharin, provides an example that highlights some of this controversy. In April 1977, the Food and Drug Administration (FDA) issued a detailed plan to end the use of saccharin as a general purpose food additive. This proposal was made after saccharin was found to cause cancer in laboratory rats. Because of the popularity of artificially sweetened products and the lack of an alternative sweetner (aspartame was approved in 1981), the proposal spawned a public outcry. Critics of the proposal argued that the animal test results for saccarin were not relevent to the circumstances under which people consumed saccharin. In November 1977, the Saccarin Study and Labeling Act was signed into law. The Act mandated warnings labels on saccharin-containing products and allowed the sweetner to remain on the market for 18 months while further studies were made. The moratorium on a ban of saccharin was extended in 1979, 1981, 1983, and 1985. The current extension is scheduled to lapse on May 1, 1987.

The Delaney clause and other controversial provisions of the FDCA have been the target for several legislative proposals to modify or "modernize" food safety laws.

During the 97th Congress the Food Safety Amendments of 1981 were introduced in both the House and Senate. This legislation would have amended provisions related to food safety in the FD&C Act, the Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act. No formal action on this legislation was taken by the 97th Congress. In June 1983 the Senate Committee on Labor and Human Resources held three days of hearings on food safety. In October 1983 the Food Safety Modernization Act of 1983 (S. 1938/ H.R. 4121) was introduced in both the House and Senate. However, no action was taken on the legislation by the 98th Congress.

On June 4, 1986, Senator Orrin (R-Utah) introduced the Food Safety Modernization Act of 1986. This bill is identical to the 1983 Senate bill. A key provision of the bill would create an exception to the Delaney clause allowing approval of cancer-causing substances found to pose only a negligible risk to public health. Hearings on the bill were scheduled before the Committee on Labor and Human Resources but were later cancelled. No action on the bill is likely in the 99th Congress.

In December 1985, FDA proposed to maintain approval of a food additive, methylene chloride, despite a finding it caused cancer in in laboratory animals. FDA determined that under the conditions people were exposed to the substance, it posed a de minimis (negligible) risk to public health. The FDA regulation for the first time recognized an exception to the Delaney clause for cancer-causing substances believed to pose little or no risk to humans. In August 1986, FDA again recognized the so-called "de minimis exception" to the Delaney clause in issuing final rules to permanently list (approve) certain uses of color additives D&C orange 17 and D&C red 19. The legality of creating an exception to the Delaney clause by regulation rather than by legislation is being challenged in a suit brought by Public Citizen and the Consumer Federation of America. [See CRS issue briefs IB85119 -- Artifical Sweeteners; and IB83158 -- Food Safety Policy: Scientific and Regulatory Issues.]

LEGISLATION

P.L. 99-46, S. 484

Amends the Saccharin Study and Labeling Act to extend to May 1, 1987, the period during which the Secretary of Health and Human Services may not take certain actions to restrict the continued use of saccharin or of any food, drug, or cosmetic containing saccharin. Introduced Feb. 2, 1985. Signed into law on May 25, 1985.

Donna V. Porter and Sarah E. Taylor
IB83158

BUDGET AND GOVERNMENT SPENDING

MLC-003

THE FEDERAL BUDGET PROCESS, INCLUDING GRAMM-RUDMAN-HOLLINGS PROCEDURES

...legislation changing the Budget Act...

The Federal budget cycle begins each year when the President submits his budget to Congress in January or February for the fiscal year starting on October 1. After reviewing the President's recommendations, Congress develops its own budget plan in the form of a budget resolution. Congress implements the budget plan by enacting various types of legislation, including tax measures, appropriations bills and other spending bills, measures increasing the public debt limit, and, if required by the budget resolution, one or more reconciliation measures. [Certain budgetary measures, especially reconciliation bills, debt limit measures, and continuing resolutions, sometimes contain significant provisions of a nonbudgetary character. For example, H.J.Res. 668, a measure increasing the public debt limit for FY87, contains -- among other things -- provisions dealing with investment and disinvestment of Social Security trust funds, emergency drought assistance to farmers, the unlawful laundering of money, and modifications to the Gramm-Rudman-Hollings Act. The reader should refer to other subject headings as appropriate for discussion of such issues.]

The Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344) created a procedural framework enabling Congress to coordinate action on budgetary legislation and shape broad fiscal policy. Until recently, significant changes in Budget Act procedures occurred mainly in ad hoc fashion. However, on Dec. 12, 1985, the President approved the Balanced Budget and Emergency Deficit Control Act of 1985 (H.J.Res. 372, P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act. The Act (added as an amendment to legislation increasing the public debt limit) modifies the 1974 Budget Act and establishes a procedure to eliminate Federal deficits by FY91.

Under the 1974 Budget Act, as amended, the budget process centers on the adoption of a concurrent resolution which sets budget levels (such as total spending, revenues, and the budget deficit or surplus) and spending priorities. Congress enforces the budgetary decisions agreed to in a budget resolution by means of the reconciliation process and various points of order, and coordinates budgetary actions under a fixed timetable.

The Gramm-Rudman-Hollings Act would eliminate the deficit by FY91 through the imposition of maximum deficit amounts set in the law covering FY86 through FY91. In the event the deficit for a fiscal year is projected to exceed the maximum deficit amount for that year, a special procedure -- known as sequestration -- may be invoked in order to bring the deficit down to the maximum level allowed under the Act.

The sequestration procedure involves the issuance of a presidential order cancelling certain budgetary resources; the order is prompted by a "triggering mechanism" involving reports by the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), and the Comptroller General, or alternatively, by "fallback" procedures involving the enactment of a joint resolution. Under the first mechanism, the Directors of OMB and CBO issue a joint report to the Comptroller General which forecasts economic performance, projects the Federal deficit for the upcoming fiscal year, and calculates uniform percentages and amounts by which spending must be reduced to eliminate any deficit in excess of the maximum amount. In the case of differences between CBO and OMB, the amounts are averaged. The Comptroller General then issues a report to the President and the Congress based on the CBO/OMB joint report. Should the Comptroller General's report project a deficit exceeding the maximum specified for a fiscal year, the President must issue a sequester order reducing spending by the amounts and percentages specified in the report. A number of programs, including Social Security, are exempt from sequestration, while others are reduced under special rules. The emergency deficit control procedures may be suspended if a recession has occurred or is forecast.

On July 7, 1986, the Supreme Court ruled (in the "Bowsher decision") the Comptroller General's role, the "triggering mechanism," unconstitutional on the ground that it violated the separation of powers doctrine (the Comptroller General, as a legislative officer, may not be given executive functions). However, the Court stayed its decision for 60 days, allowing Congress time to ratify, under the "fallback" procedures, the FY86 sequestration. In July, the House and Senate passed a ratification resolution, H.J.Res. 672, and a measure correcting its enrollment, H.Con.Res. 368. The President approved the measure on July 31, 1986 (P.L. 99-366).

In an effort to modify the "triggering mechanism" to meet constitutional objections, the Senate adopted an amendment to H.J.Res. 668 (a measure increasing the debt limit) which would vest authority for issuing the triggering report in the Director of the OMB -- an executive officer. The Senate passed the measure with amendments on Aug. 9, 1986, but the two Houses adjourned for the August recess before completing action on it. As a result, a stop-gap bill (H.R. 5395) was enacted, raising the debt limit by an amount sufficient to last until after Congress reconvenes in September.

Regarding a separate issue, on Mar. 25, 1986, the Senate rejected a proposed constitutional amendment to require a balanced budget (S.J.Res. 225) by a vote of 66 yeas to 34 nays (one vote less than the two-thirds vote required to adopt a proposed constitutional amendment).

LEGISLATION

P.L. 99-177, H.J.Res. 372
Provides for an increase in the statutory limit on the public debt, and includes the Balanced Budget and Emergency Deficit Control Act of 1985. Introduced Aug. 1, 1985. Signed into law Dec. 12, 1985.

P.L. 99-366, H.J.Res. 672 (H.Con.Res. 368)
Ratifies the FY86 sequestration order of Mar. 1, 1986, and related legislative actions. Introduced July 17, 1986. Signed into law July 31, 1986.

H.J.Res. 668
Provides for an increase in the statutory limit on the public debt. The Senate-passed version contains modifications to the Gramm-Rudman-Hollings Act. Introduced July 14, 1986, and deemed passed in the House June 26, 1986. Passed Senate Aug. 9, 1986. Pending conference.

S.J.Res. 225 (Thurmond)
Proposed constitutional amendment to balance the budget. Introduced Oct. 23, 1985. Rejected in the Senate Mar. 25, 1986, by a vote of 66 yeas to 34 nays (one vote less than the two-thirds vote required to adopt a proposed constitutional amendment).

Sandy Streeter

MLC-004

GENERAL REVENUE SHARING: ACTION IN THE 99TH CONGRESS

...support may be waning...

The general revenue sharing program is scheduled to expire on Sept. 30, 1986. Originally enacted in 1972, the program provides Federal payments to approximately 39,000 units of general purpose local government. This broad distribution coupled with the "no-strings-attached" nature of the program has made it popular both in the Congress and among local governments. Legislation has been introduced in the 99th Congress to continue the general revenue sharing program. The concurrent budget resolution for FY87 provides for funding the program in FY87 (S.Con.Res. 120) only if reauthorization legislation is enacted and if any reauthorized program is "budget neutral" (i.e., expenditures are offset by newly enacted receipts or spending cuts). Support for the program in the Congress, however, may be waning in light of the Federal budget deficit. The 1986 funding level of the program was reduced from an authorized annual level of $4.6 billion by two major pieces of legislation enacted in the 99th Congress, the HUD and Independent Agencies Appropriations Act, 1986 (P.L. 99-160); and the Balanced Budget and Emergency Deficit Control Act of 1985 -- Gramm-Rudman-Hollings (P.L. 99-177).

LEGISLATION

H.R. 1400 (Weiss et al.)
Extends the authorization of appropriations for general revenue sharing for 3 years, through FY91. Introduced Mar. 5, 1985; referred to Government Operations Committee. Reported out of Subcommittee on Intergovernmental Relations on Feb. 25, 1986. Reported out of Committee on Government Operations on Apr. 22, 1986.

H.R. 2978 (McEwen)
Extends the authorization of appropriations for general revenue sharing for 2 years, through FY88. Revises allocation formula provisions concerning: (1) special allocations for Indian tribes and Alaskan native villages, (2) State area allocations for units of general local government, (3) general entitlement for units of general local government, and (4) adjustments of local government allocations. Introduced July 11, 1985; referred to Government Operations Committee.

H.R. 4085 (McEwen et al.)/S. 2037 (Durenberger et al.)
Replaces the general revenue sharing program with a targeted fiscal assistance program which provides for the allocation of $2.3 billion based upon "need". H.R. 4085 introduced Jan. 30, 1986; referred to Committee on Government Operations. S. 2037 introduced Jan. 30, 1986; referred to Committee on Governmental Affairs.

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MLC-005

OVERVIEW OF THE FY86 FEDERAL BUDGET

...economic sluggishness revealed...

Fiscal year 1986 budget action in 1985 included the President's budget proposals in early February followed by extensive congressional deliberations on the budget resolution for the year. The Republican-led Senate was first with a budget resolution (S.Con.Res. 32) in early May, 1985. The House followed shortly with their own version of the resolution (H.Con.Res. 152) in late May. A House-Senate conference on the resolution lasted through July, finally reaching a substitute compromise budget resolution that both Houses of Congress agreed to on Aug. 1, 1985 (a substitute for

S.Con.Res. 32). Congressional action to implement the budget resolution continued through the fall and early winter of 1985, actions that included adopting numerous appropriation bills, efforts to pass a reconciliation bill, and in December the passage of the Emergency Deficit Control Act of 1985 (P.L. 99-177), generally referred to as Gramm-Rudman-Hollings or GRH.

The almost $12 billion in automatic Gramm-Rudman-Hollings (GRH) spending reductions (sequestration) were revealed in the required CBO and OMB joint report in mid-January. The General Accounting Office (GAO) issued its report on the sequestration of funds (cancellation of budget authority) to the President and the Congress on Jan. 21, 1986. This was followed by the President's sequestration order of Feb. 1, 1986. The sequestration of FY86 budget authority took effect on Mar. 1, 1986. (Because the automatic spending procedures were declared unconstitutional by the Supreme Court in July, 1986, Congress adopted and the President signed a joint resolution (P.L. 99-366, H.J.Res. 672, July 31, 1986) reaffirming the automatic spending reductions made in March, 1986.)

The President issued his FY87 budget on Feb. 5, 1986. His new budget contained revised estimates of the FY86 budget totals, showing growth in both outlays (to $979.9 billion) and the deficit ($202.8), and a decline in estimated receipts (to $777.1 billion), since the adoption of the budget resolution in the fall of 1985. CBO followed shortly with their annual economic and budget report which also contained updated (baseline) estimates of FY86 budget totals. The CBO budget numbers showed similar trends with outlays rising to $986 billion, the deficit rising to $208 billion, and receipts falling to $778 billion. The changes resulted from a combination of factors including slower economic growth, the failure to pass the FY86 reconciliation legislation, and higher than expected outlays in farm programs and financial institution insurance.

During this time Congress continued to work on the reconciliation bill for FY86, H.R. 3128. By the end of March a conference agreement was reached and both the House and the Senate accepted the legislation. The bill was initially expected, when proposed, to reduce the potential deficit by $74 billion over 3 years (fiscal years 1986, 1987, 1988), but CBO estimates at the time of passage put the deficit savings at a little over $18 billion for the same 3 years.

Congress also began working on the FY87 budget resolution. Unlike previous years the FY87 resolution did not revise the budget resolution totals established for the previous fiscal year, in this instance FY86. GRH made it difficult for Congress to include revised budget totals because of new rules prohibiting the consideration of budget resolutions providing for a deficit in excess of the maximum for a fiscal year. The deficit estimates for FY86 (by February 1986) exceeded the limit set in GRH.

Ihe FY86 budget estimates contained in the mid-year budqet reports of CBO and OMB released during the first week of August, 1986 reflected the sluggishness of the economy in 1986 and the unexpected size of selected Federal outlays. Both agencies estimated much larger deficits for the year than had previously been expected. CBO put the deficit at $224 billion and OMB put the deficit at $230.2 billion for the year. Both estimates far exceed the GRH deficit limit for the year of $171.9 billion. Few if any additional official Government estimates are expected on the FY86 budget before the end of the fiscal year on Sept. 30, 1986. Actual budget totals for the fiscal year should be available around Nov. 1, 1986.

LEGISLATION

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). Forces deficit reductions over the next 5 years. Signed into law Dec. 12, 1985.

P.L. 99-179, H.J.Res. 476

Furthering continuing resolution on appropriations. Funds those activities of the Government not covered by the currently enacted 6 (out of 13) reqular appropriation bills. Signed into law Dec. 13, 1985.

P.L. 99-272, H.R. 3128

Consolidated Omnibus Budget Reconciliation Act of 1985. Makes the required spending reductions as called for in the FY86 budget resolution. Introduced July 31, 1985; referred to more than one committee. Considered by Committee on Education and Labor and marked up Sept. 11, 1985. Reported, amended, September 11 (H.Rept. 99-241, Part II). Considered by Committee on Judiciary and marked up September 10. Reported, amended, September 11 (H.Rept. 99-241, Part III). Reported by Committee on Ways and Means July 31, 1985 (H.Rept. 99-241, Part I). Passed House, amended, Oct. 31, 1985. Referred to Senate Committee on Finance Nov. 7, 1985. Reported, amended, Nov. 14, 1985. Passed Senate in lieu of S. 1730 November 14. Conference report filed in House Dec. 19, 1985. Senate agreed to conference report Dec. 19, 1985. Eventually passed by Congress Apr. 1, 1986. Signed into law who knows when??

H.Con.Res. 152 (Gray)

House-adopted version of the 1st budget resolution for FY86. Substituted for the text of S.Con.Res. 32. Adopted May 23, 1985.

S.Con.Res. 32 (Domenici)

Congressionally adopted 1st concurrent budget resolution for FY86 (Aug. 1, 1985). Originally adopted as the Senate version on May 9-10, 1985. Substituting the text of H.Con.Res. 152 for the text of S.Con. Res. 32, the House adopted their version of the 1st budget resolution on May 23, 1985. After further modifications it was adopted by Congress on Aug. 1, 1985.

Philip D. Winters

MLC-006

OVERVIEW OF THE FY87 FEDERAL BUDGET

...more budget activity expected in September...

Congress adopted the binding concurrent resolution on the budget (S.Con.Res. 120) on June 26, 1986. The resolution called for $995 billion in outlays, $852.4 billion in receipts, and a $142.6 billion deficit for FY87. This action followed a month of discussion by the conferees and almost 6 months of congressional concern over the budget in the Gramm-Rudman-Hollings context (see below). Both the House and the Senate had previously adopted versions of the budget resolution that rejected the President's recurring budget proposals for large defense spending increases, further reductions in domestic spending, and no increase in taxes.

The budget resolution's deficit of $142.6 billion was below the FY87 deficit level of $144 billion required by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, commonly called the Gramm-Rudman-Hollings Act or just GRH). If this deficit can be achieved through future budget action, including the enactment of necessary and conforming appropriation bills, a budget reconciliation measure (H.R. 5300/S. 2706), and continued favorable economic outlook, the triggering of the automatic spending reductions required by GRH could be avoided. The required modified across-the-board spending reductions would be triggered if the estimated FY87 deficit should exceed $154 billion (see below for additional discussion of the estimates). Although part of the enforcement procedure of GRH was rejected by the Supreme Court in July, 1986, a "fallback" procedure is included in GRH that requires Congress to adopt and the President to sign legislation before the actual spending reductions can be ordered.

Currently, efforts are underway to address the Supreme Court's objections to the automatic spending reduction procedures through new legislation. Prior to the August recess the Senate made an effort to modify GRH and attach these modifications to a public debt limit increase bill (H.J.Res. 668, which would increase the debt limit from $2.079 trillion to $2.323 trillion). The modifications are an attempt to satisfy the Supreme Court's objections to the original automatic budget cutting procedures of the Gramm-Rudman-Hollings Act. The House and Senate were unable to reach final agreement on H.J. Res. 668, as amended, before the August recess. On August 15, the House and the Senate cleared a needed short-term increase in the public debt limit (H.R. 5395, $32 billion increase). The new limit is expected to allow the Government to continue operating through September. At that time additional efforts are expected to both "fix" GRH and to adopt a year-long increase in the public debt limit. (Congressional action can also be expected at that time on the conference report on the Tax Reform Act of 1986, H.R. 3838, unfinished appropriation bills, and budget reconciliation.)

The GRH-mandated deficit estimates that can trigger the required spending resolution procedures are made by the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB). They released their reports containing the revised deficit estimates on Aug. 20, 1986. The revised deficit estimates are prepared following instructions contained in the Emergency Deficit Control Act and reflect laws and regulations in effect on Aug. 15, 1986. (A revised OMB/CBO report will be issued on Oct. 6, 1986 reflecting any changes in law and regulation since Aug. 15, 1986 affecting the FY87 budget.) It is these August 20th estimates that will trigger the procedures leading to the modified across-the-board reductions unless significant additional deficit reduction action is completed during September. The report put the average of the two deficit estimates at $163.4 billion, almost $10 billion greater than the allowed upper limit of $154 billion for FY87. The larger than allowed deficit will lead, if no further deficit reduction action is taken by Congress and the President in September, to a required spending reduction of $19.4 billion as calculated in the Initial Sequestration report. This reduction would have to be achieved by the passage of suitable legislation since the automatic reduction procedures were rejected by the Supreme Court.

In early August both agencies released their annual midyear budget and economic outlook reports which provided a preview of the August 20th reports. These annual reports, in the current services (from OMB) and baseline (from CBO) estimates, indicated that the FY87 deficit would be larger than the deficit contained in the budget resolution and would exceed the target deficit in the GRH if no additional deficit-reducing action is taken. The CBO baseline estimates for outlays were over $15 billion higher ($1012 billion) than the budget resolution and the baseline receipts were $30 billion less ($828 billion) than in the budget resolution, putting the deficit $45 billion higher ($184 billion) than the deficit in the resolution. OMB, making somewhat different assumptions, estimated outlays of $999.1 billion, $5 billion above the budget resolution and receipts of $827.6 billion, almost $30 billion less than the budget resolution, putting the current services deficit $35 billion higher ($171.5 billion) than the resolution's deficit.

A great deal of additional budget-related congressional activity is expected in September when Congress returns from its summer recess.

LEGISLATION

H.R. 5300 (Gray, W.)
Omnibus Reconciliation Act of 1986. House version of the Senate bill, S. 2706. Action is not expected on the House version of the legislation until after the summer recess. H.R. 5300 introduced July 31, 1986. Reported by Committee on Budget July 31 (H.Rept. 99-727).

H.R. 5395 (Rostenkowski)
Increases the statutory limit on the public debt. This bill is a replacement for H.J.Res. 668. Adopted by Congress Aug. 16, 1986, after being stripped of the GRH fix placed there in the Senate. The measure would increase the limit to $2.11 trillion. [The House had originally wanted an increase to $2.15 trillion.] Introduced Aug. 12, 1986; referred to Committee on Ways and Means. Reported Aug. 13, 1986 (H.Rept. 99-989). Passed House Aug. 14. Passed Senate Aug. 16.

H.Con.Res. 337 (Gray, W.)
Concurrent Resolution on the Budget -- FY87. House version of the FY87 budget resolution. Adopted May 15, 1986 and substitutes for the text of S.Con.Res. 120, the Senate version of the concurrent resolution on the budget.

H.J.Res. 668
Increases the statutory limit on the public debt. The bill, automatically deemed passed by the House upon acceptance by Congress of the conference report on the budget resolution, that would raise the public debt limit from $2.079 trillion to $2.323 trillion used by the Senate as vehicle for changes to GRH and over 30 other amendments. The amendments were rejected by the House. Introduced June 26, 1986. Reported to Senate July 18 (S.Rept. 99-335). Passed Senate Aug. 9, 1986.

S. 2706 (Domenici)
Omnibus Reconciliation Act of 1986. Contains the recommendations of various Senate committeess on the changes in law required by the budget resolution. These changes are necessary to fulfill the intent of the budget resolution. Sneate consideration of this legislation is not expected until after the summer recess. Introduced July 31, 1986; referred to Committee on Budget. Reported July 31 (S.Rept. 99-348).

S.Con.Res. 120 (Domenici)
Concurrent Resolution on the Budget -- FY87. Used for the conference report and congressionally adopted version of the first concurrent resolution on the budget for FY87. Initially adopted by the Senate as its version of the concurrent resolution on the budget for FY87 on May 2, 1986. Conference report 99-664 filed in House June 26. House agreed to conference report June 26; Senate agreed to conference report June 27, 1986.

Philip D. Winters

MLC-007

SUMMARY OF FY86 AND FY87 APPROPRIATIONS

...13 annual appropriations acts...

More than half of the new annual budget authority made available to Federal agencies is provided in 13 annual appropriations acts (the remaining budget authority being provided by permanent appropriations in existing law or other funding devices).

In the first session of the 99th Congress, six annual appropriations for FY86 were signed into law, while the remaining seven were funded by a full-year continuing resolution (H.J.Res. 465, P.L. 99-190). Pending enactment of this full-year measure on Dec. 20, 1985, three short term continuing resolutions were enacted to prevent a lapse in appropriations after the start of the fiscal year on October 1.

Also, during the session, three supplemental appropriations measures for FY85 were also signed into law: (1) H.R. 1239, appropriating urgent supplemental funds for emergency famine relief and recovery in Africa, became P.L. 99-10 on Apr. 4, 1985; (2) H.J.Res. 342, providing urgent supplemental appropriations for agriculture, became P.L. 99-71 on July 24, 1985; and (3) H.R. 2577, providing general supplemental appropriations for FY85, became P.L. 99-88 on Aug. 15, 1985.

In the second session of the 99th Congress up to the August recess, no annual appropriations bills for FY87 have been enacted into law. The House passed 10 annual appropriations bills and the Senate passed two. A conference report has been filed on one of these bills, H.R. 5203, Legislative Branch. Congress is expected to enact continuing appropriations to cover spending for any of the regular appropriations bills not enacted by the start of the fiscal year.

Also, during the second session, three FY86 supplemental appropriations bills were enacted: (1) H.J.Res. 520, appropriating urgent supplemental funds for the Commodity Credit Corporation, became P.L. 99-243 on Feb. 10, 1986; (2) H.J.Res 534, appropriating urgent supplemental funds for the Commodity Credit Corporation, became P.L. 99-263 on Mar. 24, 1986; and (3) H.R. 4515, providing general supplemental appropriations for FY86, became P.L. 99-349 on July 2, 1986. In most cases, the supplemental appropriations measures provided additional funding to accounts that previously had been reduced under the Mar. 1, 1986, sequester order required by the Gramm-Rudman-Hollings Act.

LEGISLATION

First Session

Agriculture

H.R. 3037 (Whitten)
Provides budget authority for the Department of Agriculture, rural development, and related agencies for FY86. Introduced July 18, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $40.5 billion in budget authority.

Commerce

P.L. 99-180, H.R. 2965
Provides $11.9 billion in budget authority for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for FY86. Introduced July 11, 1985. Signed into law Dec. 13, 1985.

Defense

H.R. 3629 (Addabbo)
Provides budget authority for the Department of Defense for FY86. Introduced Oct. 24, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $281.2 billion in budget authority.

District of Columbia

H.R. 3067 (Dixon)
Provides budget authority for the government of the District of Columbia for FY86. Introduced July 24, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $546.8 million in budget authority.

Energy and Water

P.L. 99-141, H.R. 2959
Provides $15.3 billion in budget authority for energy and water development programs for FY86. Introduced July 10, 1985. Signed into law Nov. 1, 1985.

Foreign Assistance

H.R. 3228 (Obey)
Provides budget authority for foreign assistance programs for FY86. Introduced Aug. 1, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $15 billion in budget authority.

HUD-Independent Agencies

P.L. 99-160, H.R. 3038
Provides $57.3 billion in budget authority for the Department of Housing and Urban Development and independent agencies for FY86. Introduced July 18, 1985. Signed into law Nov. 25, 1985.

Interior

H.R. 3011 (Yates)
Provides budget authority for the Department of Interior and related agencies for FY86. Introduced July 16, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $1.2 billion in budget authority.

Labor/HHS/Education

P.L. 99-178, H.R. 3424
Provides $94.9 billion in budget authority for the Departments of Labor, Health and Human Services, and Education for FY86. Introduced Sept. 26, 1985. Signed into law Dec. 12, 1985.

Legislative Branch

P.L. 99-151, H.R. 2942
Provides $1.6 billion in budget authority for the Legislative Branch for FY86. Introduced July 10, 1985. Signed into law Nov. 13, 1985.

Military Construction

P.L. 99-173, H.R. 3327
Provides $8.5 billion in budget authority for military construction for FY86. Introduced Sept. 18, 1985. Signed into law Dec. 10, 1985.

Transportation

H.R. 3244 (Lehman, W.)
Provides budget authority for the Department of Transportation and related agencies for FY86. Introduced Sept. 5, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $10.4 billion in budget authority.

Treasury

H.R. 3036 (Roybal)
Provides budget authority for the Department of Treasury, Postal Service, Executive Office of the President, and certain independent agencies for FY86. Introduced July 18, 1985. Congress approved H.R. 3036, Nov. 7, 1985. President vetoed the bill on Nov. 15, 1985. Funds included in P.L. 99-190, continuing appropriations for FY86, providing $13 billion in budget authority.

Second Session

Agriculture

H.R. 5177 (Whitten)
Provides budget authority for the Department of Agriculture, rural development, and related agencies for FY87. Introduced July 16, 1986. House passed bill July 24, 1986, appropriating $46.3 billion in budget authority.

Commerce

H.R. 5161 (Smith, N.)
Provides budget authority for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for FY87. Introduced July 15, 1986. House passed bill July 17, 1986, appropriating $12.3 billion in budget authority.

Defense

H.R. 5438 (Chappell)
Provides budget authority for the Department of Defense for FY87. Introduced Aug. 14, 1986. House Appropriations Committee reported the bill Aug. 14, 1986, appropriating $265.2 billion in budget authority.

District of Columbia

H.R. 5175 (Dixon)
Provides budget authority for the government of the District of Columbia for FY87. Introduced July 15, 1986. House passed bill July 24, 1986, appropriating $530 million in budget authority. Senate Appropriations Committee reported the bill Aug. 5, 1986, appropriating $560 million in budget authority. Senate passed bill, with amendments, Aug. 12, 1986. Senate vitiated passage on Aug. 13, 1986. Bill pending Senate floor action.

Energy and Water

H.R. 5162 (Bevill)
Provides budget authority for energy and water development programs for FY87. Introduced July 15, 1986. House passed bill July 23, 1986, appropriating $15.5 billion in budget authority.

Foreign Assistance

H.R. 5339 (Obey)
Provides budget authority for foreign assistance programs for FY87. Introduced Aug. 5, 1986. House Appropriations Committee reported bill Aug. 5, 1986, appropriating $12.3 billion in budget authority.

HUD-Independent Agencies

H.R. 5313 (Boland)
Provides budget authority for the Department of Housing and Urban Development and independent agencies for FY87. Introduced July 31, 1986. House Appropriations Committee reported bill July 31, 1986, appropriating $54.0 billion in budget authority.

Interior

H.R. 5234 (Yates)
Provides budget authority for the Department of Interior and related agencies for FY87. Introduced July 24, 1986. House passed bill July 31, 1986, appropriating $8.2 billion in budget authority. Senate Appropriations Committee reported bill Aug. 13, 1986, appropriating $7.9 billion in budget authority.

Labor/HHS/Education

H.R. 5233 (Natcher)
Provides budget authority for the Departments of Labor, Health and Human Services, and Education for FY87. Introduced July 24, 1986. House passed bill July 31, 1986, appropriating $102.6 billion in budget authority. Senate Appropriations Committee reported bill Aug. 15, 1986, appropriating $112.5 billion in budget authority.

Legislative Branch

H.R. 5203 (Fazio)
Provides budget authority for the Legislative Branch for FY87. Introduced July 17, 1986. Conference report filed Aug. 15, 1986, appropriating $1.6 billion in budget authority.

Military Construction

H.R. 5052 (Hefner)
Provides budget authority for military construction for FY87. Introduced June 19, 1986. House passed bill June 25, 1986, appropriating $8.0 billion in budget authority. Senate passed bill Aug. 13, 1986, appropriating $8.2 billion in budget authority. Pending conference.

Transportation

H.R. 5205 (Lehman, W.)
Provides budget authority for the Department of Transportation and related agencies for FY87. Introduced July 18, 1986. House passed bill July 30, 1986, appropriating $10.3 billion in budget authority. Senate Appropriations Committee reported bill Aug. 19, 1986, appropriating $10.2 billion in budget authority.

Treasury

H.R. 5294 (Roybal)
Provides budget authority for the Department of Treasury, Postal Service, Executive Office of the President, and certain independent agencies for FY87. Introduced July 30, 1986. House passed bill Aug. 6, 1986, appropriating $13.7 billion in budget authority. Senate Appropriations Committee reported bill Aug. 14, 1986, appropriating $13.3 billion in budget authority.

Sandy Streeter

BUSINESS, INDUSTRY, AND CONSUMER AFFAIRS

MLC-008

CIGARETTES AND OTHER TOBACCO PRODUCTS: SHOULD CONGRESS BAN ALL ADVERTISING AND PROMOTION?

...laws enacted to discourage consumption...

As evidence of smoking's high costs to society in both economic and human terms has accumulated during the last quarter century, the Congress has responded by enacting several important laws designed to discourage consumption. These laws include provisions that prohibit the advertising of cigarettes and smokeless tobacco products on television and radio as well as requirements that specified health warnings be placed on packages and in those forms of advertising that are still permitted.

With some estimates now placing the number of Americans dying each day from smoking-related illnesses at close to one thousand, it appears that support is growing among the public in general -- and the medical profession in particular -- for additional Government action to discourage tobacco consumption. This support is bolstered by estimated costs of $43 billion in lost production last year because of smoking and $22 billion to treat smoking-related diseases.

In December 1985, the American Medical Association's 371-member policymaking house of delegates voted almost unanimously to support a prohibition of all advertising and promotions for cigarettes and smokeless tobacco products, currently estimated to be in the neighborhood of $2.8 billion per year. Subsequently, similar proposals have been made by the American Cancer Society and the American Lung Association, among others.

The tobacco industry continues to argue that its advertising is merely a competitive battle intended to persuade those who already smoke to switch brands and is not aimed at encouraging non-smokers to become smokers. In fighting the proposed comprehensive advertising and promotion ban, the tobacco industry is not without powerful allies. In addition to support from magazine and newspaper publishers who have hundreds of millions of dollars in advertising revenue at stake, a number of organizations and interests which are concerned about the constitutional protections afforded commercial speech under the First Amendment will also be found in opposition. Further, some say a ban is unlikely to be effective and, in any case, is not the best solution to the problem.

The issue of whether to impose a ban gained prominence on July 1, 1986, when the Supreme Court upheld a prohibition on casino gambling ads in Puerto Rico [*Posadas de Puerto Rico Associates* v. *Tourism Company of Puerto Rico*. No. 84-1903]. Writing for a 5-to-4 majority, Justice William H. Rehnquist said products or activities such as cigarettes, alcoholic beverages, and prostitution do not enjoy any constitutional protections and could be banned or heavily regulated. In dissent, however, Justice William J. Brennan Jr., said that "having decided to legalize casino gambling, Puerto Rico's decision to ban truthful speech concerning entirely lawful activity raises serious First Amendment problems."

LEGISLATION

H.R. 4972 (Synar, et al.)

Declares unlawful all consumer sales promotion of tobacco products by manufacturers, packers, distributors, importers, or sellers of such products in or affecting commerce. The term "consumer sales promotion" means, among other things, all radio and television commercials, newspaper and magazine advertisements, billboards, posters, signs, decals, matchbook advertising, point-of-purchase display material (except price information), advertising promotion allowances, premiums and samples, sponsorships of athletic, artistic, or other events under the registered brand name of a tobacco product, and marketing on nontobacco products or services bearing the registered brand name or logo of a tobacco product. Provides that the Federal Trade Commission shall issue regulations defining acts or practices which are unlawful consumer sales promotion of tobacco products and violations of its regulations shall be considered a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Introduced June 9, 1986; referred to Committee on Energy and Commerce. Subcommittee on Health and the Environment held hearings July 18, Aug. 1, 1986.

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MLC-009

INDUSTRIAL INNOVATION: DEBATE OVER GOVERNMENT POLICY

...a major mechanism to increase U.S. productivity...

Technological innovation, the dynamic process by which industry generates new and improved goods and services, involves idea generation, research, development, commercialization, and diffusion of the innovation throughout the economy. Utilization of new technologies and processes is the basis for increased productivity, generally leading to economic growth.

In the international arena, certain nations, most notably Japan and West Germany, have made substantial gains on the U.S. position regarding productivity levels, balance of trade in R&D-intensive products, and research and development as a percentage of Gross National Product. In this context, innovation is a major mechanism to increase U.S. productivity, to expand the number of jobs available, and to improve the country's balance of payments. Economic growth is stimulated through the utilization of new processes and the manufacture of new products. Such innovation also contributes to the resolution of national problems which are amenable to technological solutions.

Several significant activities have served as a basis for current congressional efforts concerning industrial innovation. In 1979, former President Carter transmitted a message to Congress outlining various initiatives to retain the United States' "role as the world leader in industrial innovation." The following year, the Carter Administration announced an Economic Revitalization Program focusing on economic and tax proposals which were absent from the earlier innovation initiatives. The passage of the Stevenson-Wydler Technology Innovation Act (P.L. 96-480) provided the legislative foundation for many of the Carter initiatives as well as some additional programs.

The major legislative efforts in the 97th Congress involved tax incentives to encourage research and development in the private sector and the passage of the Small Business Innovation Development Act (P.L. 97-217) designed to foster the development of innovative small companies. The Economic Recovery Tax Act of 1981 (P.L. 97-34) provides tax credits for incremental increases in qualified research expenditures and for portions of payments to universities to perform basic research. The 1981 Act also provides an increased charitable deduction for donations of new equipment by a manufacturer to an institution of higher education. This equipment must be used for research or research training for physical or biological sciences within the United States. (These provisions are set to expire in 1986.)

The emphasis in the 98th Congress was on legislation that would encourage improvements in math, science, and engineering education at the university and secondary school level (P.L. 98-377), legislation which would, in effect, exempt joint research and development ventures from Federal antitrust laws (P.L. 98-462), and on changes in the patent laws which should encourage the transfer of technologies from the Federal laboratories to the private sector where they can be commercialized.

Innovation-related issues the 99th Congress is addressing involve the tax credit for research and development mandated by Title II of the Economic Recovery Tax Act, P.L. 97-34, which expires at the end of 1985, and the reauthorization of portions of the Stevenson-Wydler Technology Innovation Act, P.L. 96-480. Proposed legislation would extend the R&D tax credit, make it permanent, and/or alter the definition of what is considered qualified research for the credit. The proposed Tax Reform Act would decrease the R&D tax credit to 20% and make it permanent.

To date, both the Senate and the House have passed versions of H.R. 3773, the Federal Technology Transfer Act, although the basic approach is similar. Both bills authorize activities designed to encourage industry, universities, and Federal laboratories to work cooperatively. They also establish incentives for Federal laboratory employees to promote the commercialization of the results of federally funded research and development. H.R. 3773 amends P.L. 96-480 to allow Government- owned, Government- operated laboratories to enter into cooperative R&D agreements with universities and the private sector. The Federal Laboratory Consortium is given a legislative mandate to assist in the coordination of technology transfer. To further promote the use of the results of Federal R&D, certain agencies are mandated to create a cash awards program and a royalty sharing activity for Federal scientists, engineers, and technicians in recognition of efforts toward commercialization of this federally developed technology.

In addition, P.L. 99-382, the Japanese Technical Literature Act, is designed to provide U.S. scientists, engineers, and other decisionmakers with additional access to Japanese technical information by increasing the availability of this material in English translation.

LEGISLATION

P.L. 99-73, H.R. 1617

National Bureau of Standards Authorization Act. Authorizes appropriations to the Secretary of Commerce for (1) the National Bureau of Standards; (2) the Office of Productivity, Technology, and Innovation; and (3) patent licensing activities of the National Technical Information Service. Introduced Mar. 20, 1985; referred to Science and Technology Committee. Reported, amended, to House Apr. 16, 1985; passed House, amended, Apr. 18. Senate struck all after the enacting clause and substituted S. 796. Passed Senate, with amendment, Apr. 23. Conference report (H.Rept. 99-187) agreed to June 13, 1985. Signed into law July 29, 1985.

P.L. 99-382, S. 1073

Japanese Technical Literature Act. Amends the Stevenson-Wydler Technology Innovation Act of 1980 to direct the Secretary of Commerce to improve the availability of Japanese technical literature to U.S. businesses, scientists, and engineers. Introduced May 6, 1985; referred to Committee on Commerce, Science, and Transportation. Reported to Senate with an amendment in the nature of a substitute Nov. 4, 1985. Passed Senate, amended, Nov. 23. Referred to House Committee on Science and Technology Dec. 2, 1985. Reported to House June 4, 1986. Called up under motion to suspend the rules June 23; passed House, amended. Senate agreed to House amendments Aug. 2. Signed into law (P.L. 99-382) Aug. 14, 1986.

H.R. 3773 (Fuqua et al.)

Federal Technology Transfer Act of 1985. Amends the Stevenson-Wydler Technology Innovation Act of 1980 by authorizing Government-owned Government-operated laboratories to enter into cooperative research agreements, establishes a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, mandates a cash awards program to recognize achievements by Federal laboratory scientific, engineering, and technical personnel, and for other purposes. Introduced Nov. 18, 1985, in lieu of H.R. 1572; referred to Committee on Science and Technology. Reported to House, amended, Dec. 5, 1985.

Passed House, amended, Dec. 9. Referred to Senate Committee on Commerce, Science, and Transportation Dec. 11, 1985. Ordered to be reported Mar. 13, 1986, with amendment in the nature of a substitute. Referred to Senate Judiciary Committee for a period not to exceed 30 days; discharged May 21, 1986. Called up by unanimous consent on Aug. 9, 1986; passed Senate, amended.

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IB84004

BUSINESS, INDUSTRY, AND GOVERNMENT AFFAIRS

MLC-010

THE LIABILITY INSURANCE CONTROVERSY

...national controversy...

Acute problems involving liability law and insurance market difficulties have, in recent years, developed into a perplexing national controversy. There has been considerable legislative activity at the Federal level and much legislative, administrative and study activity at the State level as policymakers have struggled with the complexities of trying to determine what went wrong and how to fix it. What role and what actions may be appropriate federally is not clear because tort law and insurance regulation -- major components of the problem -- have traditionally been administered by the States. There is yet no consensus at the Federal level for meaningful legislation and constituent pressure for relief and reform remains intense.

The American property-casualty insurance industry and the Lloyd's of London underwriters who have provided a principal reinsurance market for this business by spreading risks on a worldwide basis, suffered record underwriting losses in 1984 and 1985. The domestic property-casualty industry experienced operating losses (a combination of underwriting results and income, before payment of taxes) of $3.8 billion in 1984, and $5.4 billion in 1985. The deficit was substantially narrowed, however, by tax credits and capital gains on sales of investment securities. These severe underwriting losses have shrunk insurance capacity, the amount of working capital on hand that determines the volume of commercial policies an insurer can legally write. Insolvencies among State-regulated insurance companies are running at levels unprecedented in the modern history of the industry.

With premiums for business liability insurance soaring and coverage very difficult to obtain for many lines of business, the commercial insurance industry has been described by many observers as "in crisis." This situation is placing very severe economic pressures on a wide variety of professions, industries, public entities and organizations, affecting many so-called "distressed lines" of business, including liability for manufactured products, medical malpractice, long-haul trucking, municipalities, officers and directors, child care facilities, commercial fishing vessels and a host of other classes of business where affordability and availability of property-casualty insurance is an acute problem. The ensuing controversy has brought insurance, as a public policy issue, to the verge of what may well develop into an unprecedented national debate over the nature of the industry, its role in the economic life of the Nation, and whether the Federal Government should take a more active oversight or supervisory role in regulating the industry.

The insurance "crisis," for the most part, involves price and supply problems affecting a wide variety of commercial liability coverages. Commercial property coverage has also been affected, but to a lesser extent. All forms of personal lines coverages continue to be written in a generally competitive environment with limited price and supply problems. Commercial liability business accounts for roughly 10% of total property-casualty business operations. However, this type of coverage has been demonstrated to be vital to the economic life of the Nation and the severe underwriting losses for commercial liability have had a very substantial impact on overall industry financial performance.

The causes of the insurance crisis are many. The inability of insurers to price premiums when they cannot define risk is said to be of major importance. The insurance industry contends that realistic underwriting (risk assessment and pricing) for commercial liability risks is very problematic largely because of case law developments in the field of tort litigation and the extent of monetary damages sought. Tort law determines who is responsible and what damages shall be paid when injuries or negligence are claimed. Insurers contend that generally acceptable rules of equity and fault prevailed in the United States until the right to claim damages was widely expanded in the last 25 years. Cost uncertainties engendered by the legal system have, according to the industry, made true liability costs difficult to calculate or project when insurers cannot measure or predict what degree of liability they may face in future years for risk exposure that may not now be apparent and for which the courts may eventually hold them liable.

The insurance industry has been accused of blaming the tort system for its problems to divert attention from what is widely termed the industry's own poor management record. Property-casualty companies in recent years priced their policies far below cost to attract funds for their investment income programs. Then-prevailing high interest rates on investments compensated for insufficient premiums. Now that interest rates have dropped to the point where investment returns are not able to cover growing underwriting losses, industry critics argue that insurers are trying to recoup losses too quickly with unreasonable rate increases, and are seeking government protection through tort law reform as well. These critics are also concerned that most economic data on the industry can come only from the industry.

In the United States, insurance has traditionally been regulated at the State level with limited Federal oversight of the adequacy and effectiveness of such regulation. Insurance problems are now a most important issue for State legislatures and officials, but because of the severity of the insurance crisis and because insurance problems are national in scope, congressional interest and scrutiny have grown accordingly.

There is mounting concern that the market for property-casualty insurance lacks a reasonable degree of stability and that the periodic boom-and-bust cycles that typically and historically have characterized property-casualty insurance industry operations are needlessly disruptive to the economic life of the Nation. The case for Federal intervention is that many insurance-related problems may need to be addressed on a national scale, and that the public, as well as the business community, requires the maintenance of a reasonably orderly and reliable insurance mechanism.

In 1985 and 1986 a number of congressional committees held over 50 separate hearings and took testimony critical of industry concerning the current problems in insurance availability and affordability. This hearing activity has prompted the Congress to begin to:

(1) investigate new ways to promote a more stable and orderly insurance marketplace, averting future sharp fluctuations in the cost and supply of commercially necessary or legally required forms of insurance protection;

(2) review the adequacy and effectiveness of State insurance regulation and question the rationale of continued State supervision of the insurance industry; on this subject, some voices have been raised within the industry itself urging an examination of Federal insurance regulatory initiatives; and,

(3) examine the basic precepts of the U.S. civil justice system (based upon insured tort liability) that may exacerbate insurance cost problems.

Current indications suggest that continuing market problems, the industry's antitrust immunity, the issue of cyclicality, and the matter of industry economic data may well be the focus of considerable legislative attention in the 100th Congress.

The trend of recent years has been toward deregulation of market activity and reduced Federal activism in the economy. Thus, as initiatives develop into specific remedial proposals, substantial opposition may well arise.

LEGISLATION

Risk Retention and/or Group Insurance Purchasing

H.R. 2261 (Heftel et al.)
Introduced Apr. 29, 1985; referred to Committee on Ways and Means.

H.R. 4311 (Florio et al.)/S. 2083 (Stafford et al.)
House bill introduced Mar. 5, 1986; referred to Committee on Energy and Commerce. Hearings by Subcommittee on Commerce Mar. 13, 1986. Senate bill introduced Feb. 20, 1986; referred to Committee on Environment and Public Works. Ordered to be reported, amended, Aug. 12, 1986.

H.R. 5225 (Wyden and Lent et al.)
This compromise measure was introduced July 23, 1986; referred to Committee on Energy and Commerce.

H.R. 4506 (LaFalce et al.)
Introduced Mar. 26, 1986; referred to Committee on Energy and Commerce.

H.R. 4798 (Schulze et al.)
Introduced May 8, 1986; referred to more than one committee.

S. 1357 (Symms et al.)
Introduced June 25, 1985; referred to Committee on Finance.

S. 2129 (Kasten et al.)
Introduced Feb. 28, 1986; referred to Committee on Commerce, Science, and Transportation. Reported May 9, 1986 (S.Rept. 99-294). Passed Senate, amended, July 17. Referred to House Committee on Energy and Commerce.

Federal Antitrust Law and the Insurance Industry

H.R. 2684 (Fish et al.)
Introduced June 6, 1985; referred to Committee on Judiciary.

H.R. 4500 (LaFalce et al.)/H.R. 4501 (LaFalce et al.)/H.R. 4502 (LaFalce et al.)/H.R. 4503/(LaFalce et al.)/H.R. 4504 (LaFalce et al.)
Introduced Mar. 25, 1986; referred to Committee on Judiciary.

S. 2103 (McClure et al.)
Introduced Feb. 26, 1986; referred to Committee on Judiciary.

S. 2458 (Simon et al.)
Introduced May 15, 1986; referred to Committee on Judiciary.

Federal Insurance Regulatory Commission

H.R. 4499 (LaFalce et al.)
Introduced Mar. 25, 1986; referred to one than one committee.

National Commission to Study Causes of Property/Casualty Insurance Problems and to Recommend Solutions

H.R. 4524 (Schulze et al.)
Introduced Apr. 8, 1986; referred to Committee on Energy and Commerce.

H.R. 4619 (Dreier et al.)
Introduced Apr. 17, 1986; referred to Committee on Energy and Commerce.

H.R. 4655 (Frank et al.)
Introduced Apr. 22, 1986; referred to more than one committee.

Data Reporting Requirements of Companies that Write Property/Casualty Coverage

H.R. 4877 (Schumer et al.)
Introduced May 21, 1986; referred to Committee on Energy and Commerce.

S. 2497 (Simon et al.)
Introduced May 21, 1986; referred to Committee on Commerce, Science, and Transportation.

New Governmental Insurance or Indemnification

H.R. 1232 (Studds et al.)
Introduced Feb. 21, 1985; referred to more than one committee. Reported by Committee on Merchant Marine and Fisheries, amended, Aug. 1, 1985 (H.Rept. 99-247, Part 1).

H.R. 1623 (Kindness et al.)
Introduced Mar. 20, 1985; referred to Committee on Judiciary. Hearings held Nov. 6, 1985.

H.R. 2005 (Jones, J. et al.)
See above.

H.R. 3090 (Williams et al.)
Introduced July 26, 1985; referred to Committee on Education and Labor. Hearings held Sept. 26, Nov. 7, 1985.

S. 1254 (Grassley)
Introduced June 6, 1985; referred to Committee on Judiciary. Hearings held June 11, 1985.

S. 2340 (Stafford et al.)
Introduced Apr. 18, 1986; referred to Committee on Environment and Public Works. Hearings scheduled for Sept. 10, 1986.

Product Liability

H.R. 5471 (Richardson et al.)
Introduced May 15, 1986; referred to more than one committee.

S. 2760 (Danforth et al.)
Introduced May 14, 1986; referred to more than one committee. Reported by Committee on Commerce Aug. 14, 1986. Written report (S.Rept. 99-422) filed Aug. 15, 1986.

David Whiteman

CIVIL RIGHTS AND LIBERTIES

MLC-011

ABORTION: JUDICIAL AND LEGISLATIVE CONTROL

...continued controversy but few changes...

In 1973 the U.S. Supreme Court held that the Constitution protects a woman's decision whether or not to terminate her pregnancy (*Roe* v. *Wade*, 410 U.S. 133) and that a State may not unduly burden the exercise of that fundamental right by regulations that prohibit or substantially limit access to the means of effectuating that decision (*Doe* v. *Bolton*, 410 U.S. 179). But rather than settling the issue, the Court's rulings have kindled heated debate and precipitated a variety of governmental actions at the national, State, and local levels designed either to nullify the rulings or hinder their effectuation. These governmental regulations have, in turn, spawned further litigation in which resulting judicial refinements in the law have been no more successful in dampening the controversy. Thus, if history is a guide, the Court's most recent pronouncements in *City of Akron* v. *Akron Center for Reproductive Health, Inc.*, *Planned Parenthood Association of Missouri* v. *Ashcroft*, and *Simopolous* v. *Virginia* (U.S. Supreme Court, June 15, 1983), reaffirming the principles enunciated in *Wade* and *Bolton*, will not serve to settle the issue finally, but will focus pressures on national and local legislative bodies.

In its 1986 Term, the Supreme Court decided two cases: *Thornburgh* v. *American College of Obstetricians and Gynecologists*; and *Diamond* v. *Charles*. These cases arose from challenges to the abortion laws in the States of Pennsylvania and Illinois respectively.

In *Thornburgh*, the Court again reaffirmed the general principles laid down in *Roe* v. *Wade*. Its ruling is basically in accord as well with its 1983 decision in

Akron. The Court largely invalidated various provisions in the Pennsylvania Act on the grounds that they subordinated "constitutional privacy interests and concerns with maternal health in an effort to deter a woman from making a decision that, with her physician, is hers to make."

In *Diamond*, the Court did not decide any of the substantive issues. Instead, it held that the appellant pediatrician lacked standing to challenge the Illinois Abortion Law. Thus, the appeal was dismissed for want of jurisdiction and lack of any "judicially cognizable interest" in the Illinois statute.

The first session of the 99th Congress came to a close with members avoiding a protracted fight over abortion issues that had been raised during the preceding months. With the passage of the Continuing Resolution H.J.Res. 465 (P.L. 99-190) incorporating seven regular FY86 appropriations measures, most of the existing abortion restrictions have remained intact.

Controversial amendments to alter existing policy relating to abortion funding had been added earlier to several bills. Foremost among these was an amendment by Representative Jack Kemp barring the use of Federal family planning funds to provide abortions or to refer pregnant women to clinics or hospitals that perform abortions. Existing regulations permit abortion counseling or referral, but no funds may be used to perform abortions. The conflict over this amendment had stalled reauthorization of Title X of the Public Health Service Act, under which domestic family planning programs are funded. Backers of the amendment sought to attach it to the continuing resolution but failed to do so in both the House and the Senate.

Another controversy arose concerning appropriations for the District of Columbia. As passed by the House, H.R. 3067 contained an amendment offered by Representative Christopher Smith barring the use of local as well as Federal funds to pay for abortions. The Senate, however, refused to accept this restriction and the provision was dropped in conference. Thus, as contained in the continuing resolution, abortion restrictions attached to District of Columbia appropriations remain unchanged.

The continuing resolution also contained restrictions on the use of overseas family planning funds by incorporating the "Kemp amendment" which prohibits contributions to agencies which are involved in programs of coersive abortion or involuntary sterilization.

As in previous Congresses a variety of constitutional amendments relating to abortion were introduced, but none received significant action in either house during the first session of the 99th Congress.

As the second session of the 99th Congress draws to a close, efforts to limit the availability of abortion funding continue in both the House and the Senate. During consideration of H.R. 5175, the FY87 appropriations bill for the District of Columbia, the House agreed to an amendment by Representative Bob Dornan to prohibit the District from using any funds in the bill, Federal or District, to pay for abortions of any kind. A similar amendment is expected to be considered when the Senate takes up the measure.

Another Dornan amendment, barring the Justice Department from using funds to pay for abortions for female inmates in Federal prisons was attached to H.R. 5161, FY87 appropriations for the Departments of Commerce, Justice, and State. The House passed the bill July 17, 1986.

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IB74019

MLC-012

SELECTED WOMEN'S ISSUES IN THE 99TH CONGRESS

...five major areas...

The interrelationship of economic and equity issues affecting women continues to interest Congress. Beginning in 1981, an omnibus Economic Equity Act (EEA) has been introduced in each successive Congress, parts of which have been separately enacted. In the 99th Congress, one part has been signed into law and several others have passed one or both chambers. Included under "The Deficit Reduction Amendments of 1985" (P.L. 99-272) were provisions of the Act requiring businesses with more than 20 employees who offer employee group health insurance to continue coverage for up to three years for widows, divorced spouses, and their dependents. Incorporated into "The Federal Equitable Pay Practices Act" (H.R. 3008) and passed by the House were provisions of the EEA calling for a study of the Federal position classification system and the prevailing rate system to determine whether discrimination plays a role in setting job classifications and salaries. Incorporated into the "Tax Reform Act of 1986" (H.R. 3838), passed by both Houses and currently in conference, were provisions of the EEA to increase and index the earned income tax credit, provisions to make more equitable the standard deduction for single heads-of-household, and provisions relating to the private pension system that would generally mandate full vesting for single-employer pensions after five years on the job or alternatively, under a graduated schedule, begin with 20% vesting after 3 years, rising to 100% after 7 years and would reduce allowable integration of pension and Social Security amounts so that an employee retains at least 50% of the pension amount due before integration.

Apart from the Economic Equity Act and introduced for the first time in the 99th Congress is legislation that would establish new employee benefits related to parenthood. The establishment of a sex-neutral, non-discriminatory parental leave benefit is intended to address the issue of limited availability of childcare; the establishment of a non-discriminatory leave for all temporary, non-occupational medical reasons (including maternity) would create a standard disability benefit for all workers. This measure has been voted out by House Commitees on Education and Labor, and Post Office and Civil Service.

In addition to the EEA, are measures to define coverage of civil rights laws prohibiting discrimination in Federally-assisted programs and activities, thus overturning the Supreme Court decision in *Grove City* v. *Bell* which limited coverage of Title IX of the 1972 Education Amendments to particular programs receiving aid. Also carried forward are questions regarding domestic budget allocations and the allegation that the Administration's budget proposals would affect different income groups unequally. This has implications for women in lower income brackets due to continued reductions in programs for the poor and near-poor, programs whose beneficiaries are predominantly female. Other continuing issues include the question of limiting or restoring coverage of abortion under Federal health care programs and the question of which E.R.A. proposal offered (if any) might best provide equal rights for women.

LEGISLATION

Civil Rights

H.R. 700 (Hawkins)/S. 431 (Kennedy)
Civil Rights Restoration Act of 1985. Restores the broad scope of coverage and clarifies the application of Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title VI of the Civil Rights Act of 1964. H.R. 700 introduced Jan. 24, 1985; referred jointly to Committees on Education and Labor, and on the Judiciary. Reported by Committees on Labor and Education, and on the Judiciary May 21-22, 1985. S. 431 introduced Feb. 7, 1985; referred to Committee on Labor and Human Resources.

S. 272 (Dole)
Civil Rights Amendments of 1985. Clarifies the meaning of the phrase "programs or activities" as applied to educational institutions that are extended Federal financial assistance. Introduced Jan. 24, 1985; referred to Committee on Labor and Human Resources. Hearing held July 17, 1985.

Economic Equity

H.R. 2472 (Schroeder)/S. 1169 (Durenberger)
Economic Equity Act of 1985. Attains economic equity for American women by providing retirement security for women as workers and as divorced spouses; makes quality dependent care available to all working families; ends discrimination in insurance on the basis of race, color, religion, national origin, or sex and improving health care coverage for displaced homemakers; providing equal employment opportunity and pay equity for women; and treating women and low-income families more equitably under the tax laws and tax reform proposals. H.R. 2472 introduced May 13, 1985; referred jointly to Committees on Education and Labor, Ways and Means, Armed Services, Banking, Finance, and Urban Affairs, Energy and Commerce, Post Office and Civil Service. House Administration and Small Business. S. 1169 introduced May 20, 1985; referred to Committee on Finance.

Parental Leave

H.R. 4300 (Clay)/S. 2278 (Dodd)
Family and Medical Leave Act of 1986. Entitles employees to specified minimum amounts of leave for (1) temporary disability involving inability to work due to nonoccupational medical reasons; and (2) the birth, adoption, or serious illness of a child. Provides for the protection of the employees' employment and benefit rights during and after such leave. Establishes the Paid Parental and Disability Leave Commission to study and recommend systems for providing salary replacement for employees who take such disability and parental leave. H.R. 4300 introduced Mar. 4, 1986; referred jointly to Committees on Education and Labor, and Post Office and Civil Service. Hearings held April 10 and 22, 1986. Reported to House by Committee on Education and Labor Aug. 8, and by Committee on Post Office and Civil Service July 21, 1986 (H.Rept. 99-699, Part 1). S. 2278 introduced Apr. 9, 1986; referred to Committee on Labor and Human Resources.

Equal Rights

H.J.Res. 2 (Rodino)/S.J.Res. 10 (Kennedy)
Constitutional amendment. Provides that equality of rights shall not be denied or abridged by the United States or by any State on account of sex. Introduced in the House and Senate Jan. 3, 1985; referred to Committees on the Judiciary.

S. 86 (Dole)/H.R. 347 (Green)
Amends laws of the United States to eliminate gender-based distinctions. Introduced in House and Senate Jan. 3, 1985; referred to Committees on the Judiciary. On Dec. 3, 1985 passed Senate.

Abortion

H.R. 608 (Schroeder)
Amends the Internal Revenue Code to establish the National Indigent Women's Abortion Trust Fund and to allow every individual to designate a portion of the individual's income tax payment for payment into such trust fund. Amends Title XIX (Medicaid) of the Social Security Act to require State plans for medical assistance to provide for abor-

tions in the same manner as other pregnancy-related services. Introduced Jan. 22, 1985; referred to Committees on Energy and Commerce, and Ways and Means.

H.R. 2691 (Green)
Reproductive Health Equity Act. Amends certain Federal laws to provide that services related to abortion be made available in the same manner as are other pregnancy-related services under federally funded programs. Introduced June 6, 1985; referred to Committees on Armed Services, District of Columbia, Foreign Affairs, Energy and Commerce, Interior and Insular Affairs, and Post Office and Civil Service.

S. 504 (Hatch)
Amends the Civil Right Act of 1964 to prohibit the use of Federal funds for abortions except when the life of the mother would be endangered if the fetus were carried to term. Introduced Feb. 2, 1985; referred to Committee on the Judiciary.

Health

P.L. 99-272, H.R. 3128
Requires States to provide Medicaid coverage for pregnant women in two-parent families that meet AFDC income and resource standards even if the principal breadwinner is employed. Post-partum care for this population group is also required. Medicaid coverage had not been previously available to families unless the principal breadwinner was absent, incapacitated, or unemployed. Signed into law Apr. 7, 1986.

Leslie Gladstone

COMMUNICATIONS

MLC-013

THE SCRAMBLING OF CABLE SATELLITE PROGRAMMING AND THE BACKYARD SATELLITE DISH MARKET

...concern over pricing and distribution...

Major satellite cable programmers have decided to "protect" their satellite transmitted programming from unauthorized use and ensure compensation for this reception, by scrambling (encrypting) and marketing their signals. This action is of particular consequence to the manufacturers, retailers, and the estimated 1.7 million owners of backyard (or home satellite) dishes who depend on the direct reception of satellite transmitted signals to meet their programming needs. Although most satellite dish owners claim they are willing to pay for this reception, major concern has been voiced over the marketing/distribution systems and pricing structures which are being developed to implement such access. The implementation of full time scrambling by Home Box Office, Showtime/The Movie Channel and Cable News Network, as well as announced plans by most major cable programmers and broadcast networks to scramble their satellite feeds, have given further urgency to these concerns.

The current accelerated movement towards the scrambling of satellite programming and the controversies which have developed as a result of this activity have prompted congressional examination of the scrambling issue. The development of marketing arrangements which ensure access to descramblers and programming under "reasonable" terms, conditions and prices, has become the focal point for congressional concern. Access to both descramblers and satellite programming, while of general congressional interest, is of particular concern to Members from rural areas where the backyard satellite dish may be the only means of receiving programming. Numerous backyard satellite dish-related bills have been introduced in the 99th Congress, and hearings on scrambling concerns have been held in both the House and Senate. Scrambling-related inquiries have been initiated at the Justice Department and the Federal Communications Commission as well.

LEGISLATION

H.R. 1769 (Gregg)
Amends the Communications Act of 1934 to prohibit the encryption of satellite cable programming for 2 years after enactment of this Act. Introduced Mar. 27, 1985; referred to Committee on Energy and Commerce. Referred to Telecommunications Subcommittee, Apr. 1, 1985; hearings held Mar. 6 and June 12, 1986.

H.R. 1840 (Tauzin)
Amends the Communications Act of 1934 to prohibit any person from denying the availability of satellite cable programming for private viewing or from substantially restricting such availability through pricing or other terms or conditions. Specifies conditions under which the Federal Communications Commission shall establish such prices, terms, and conditions. Introduced Mar. 28, 1985; referred to Committee on Energy and Commerce. Referred to Telecommunications Subcommittee Apr. 2, 1985; hearings held Mar. 6 and June 12, 1986.

H.R. 3378 (Kastenmeier)
Amends Title 18, U.S. Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes. Introduced Sept. 19, 1985; referred to Committee on Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Hearings held Sept. 26, 1985, Oct. 24, 1985, Jan. 30, 1986, and Mar. 5, 1986. Subcommittee markup May 14, 1986. Forwarded to the full Committee as clean bill H.R. 4952, June 5, 1986. Passed Judiciary Committee June 19, 1986. Passed House June 23, 1986. Placed on calendar in the Senate June 24, 1986.

H.R. 3989 (Sweeney)
Amends the Communications Act of 1934 to prescribe conditions for the encryption of satellite cable programming. Introduced Dec. 18, 1985; referred to Committee on Energy and Commerce. Referred to Telecommunications Subcommittee Dec. 20, 1985. Hearings held Mar. 6 and June 12, 1986.

H.R. 4414 (Richardson)
Specifies information on limitations on the use of satellite earth stations which must be disclosed by sellers. Introduced Mar. 13, 1986; referred to Committee on Energy and Commerce. Referred to Subcommittee on Commerce, Transportation and Tourism Mar. 21, 1986. Referred to Telecommunications Subcommittee Mar. 21, 1986.

H.R. 4952 (Kastenmeier)
See: H.R. 3378.

H.R. 4674 (Hammerschmidt)
Amends the Communications Act of 1934 to prescribe conditions for the encryption of satellite cable programming. Introduced Apr. 23, 1986; referred to Committee on Energy and Commerce. Referred to Telecommunications Subcommittee Apr. 24, 1986. Hearings held June 12, 1986.

H.R. 4983 (Coble)
Amends Chapter 65 of Title 18, United States Code, to provide a criminal penalty for interference with satellite communications. Introduced June 11, 1986; referred to Committee on Judiciary.

H.R. 5058 (Coats)
Amends the Communications Act of 1934 to promote the increased availability of television programming through various distribution systems and for other purposes. Introduced June 19, 1986; referred to Committee on Energy and Commerce.

H.R. 5126 (Kastenmeier)
Amends Title 17, United States Code, relating to copyrights, to provide for the temporary compulsory licensing of the secondary transmission by satellite carriers of superstations for private viewing by earth station owners. Introduced June 26, 1986; referred to Committee on Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice July 10, 1986. Hearings held Aug. 7, 1986.

Amends the Communications Act of 1934 to prohibit any person from denying the availability of satellite cable programming for private viewing or from substantially restricting such availability through pricing or other terms or conditions. Specifies conditions under which the Federal Communications Commission shall establish such prices, terms, and conditions. Introduced Sept. 10, 1985; referred to Committee on Commerce. Hearings held July 31, 1986.

S. 2290 (Ford)
Amends the Communications Act of 1934 to prescribe conditions for the encryption of satellite cable programming. Introduced Apr. 11, 1986; referred to Committee on Commerce. Hearings held July 31, 1986.

S. 2575 (Leahy)
Amends Title 18, U.S. Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes. Introduced June 19, 1986; referred to Committee on Judiciary. Jointly referred to Subcommittee on Criminal Law and Subcommittee on Patents, Copyrights and Trademarks June 24, 1986. Passed copyright subcommittee with an amendment in the nature of a substitute Aug. 12, 1986.

S. 2666 (Bumpers)
Provides for a study by the Federal Communications Commission of the encryption of certain television programming, and ensures the availability of certain encrypted programming for private viewing under competitive market conditions. Introduced July 21, 1986; referred to Committee on Commerce. Hearings held July 31, 1986.

S. 2702 (Gore)
Amends the Communications Act of 1934 with regard to the encryption of satellite cable programming. Introduced July 30, 1986; referred to Committee on Commerce. Hearings held July 31, 1986.

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EDUCATION

MLC-014

EDUCATION FUNDING ISSUES: FY85 AND FY86

...reductions proposed for certain programs...

The Reagan Administration proposed reductions in FY85 and FY86 budget authority for certain education programs; redirection of the Federal role in postsecondary student financial assistance; the elimination of certain categorical programs with relatively low FY85 funding levels; and a "freeze" at the FY85 funding level for certain State grant programs. The FY86 request for Department of Education (ED) programs was $15.5 billion, 13.5% below the FY85 funding for these programs of $17.97 billion. The largest portion of the proposed cuts in FY86 budget authority, $1.7 billion, or 66%, was for the Federal postsecondary student financial assistance programs. The Administration proposed $174 million in FY85 rescissions, 59% of which involve termination of the initial funding for elementary, secondary, and higher education programs enacted by the 98th Congress, and supplemental appropriations of $665 million for the Guaranteed Student Loan program. The FY86 request for ED also contains proposals to initiate several new programs including vouchers and tuition tax credits for elementary and secondary education, and education savings accounts for college costs. Questions have been raised in Congress regarding the size and direction of the proposed funding levels for both FY85 and FY86, and the legislative initiatives requested for FY86. Congressional activity resulted in (1) the passage of the First Concurrent Resolution on the Budget, FY86 (S.Con.Res. 32), which recommended "freezing" most ED programs at the FY85 funding level; (2) the enactment of the FY85 Supplemental Appropriations Act (H.R. 2577, P.L. 99-88), which increased ED funding for FY85 to $19.1 billion; (3) the enactment of FY86 appropriations, which provided $18.4 billion for ED (H.R. 3424, P.L. 99-178); (4) the passage of the Balance Budget and Emergency Deficit Control Act of 1985 requiring automatic spending reductions in FY86 for all ED programs; and (5) the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985, which modifies certain provisions of the GSL program (H.R. 3128).

LEGISLATION

P.L. 99-88, H.R. 2577

Supplemental Appropriations Bill, 1985. Among other provisions, recommends $1.073 billion in additional FY85 budget authority for selected ED programs including $0.7 billion for the Guaranteed Student Loan program, $0.3 billion for the Pell Grant program, $0.1 billion for vocational education, and $2 million for the adult education program, and specifies the allocation of FY85 funds according to committee instructions for selected other ED programs. Reported (H.Rept. 99-142) as an original measure by the House Committee on Appropriations on May 22, 1985. Amended and passed the House June 12, 1985. Senate Appropriations Committee reported H.R. 2577, amended (S.Rept. 99-82), on June 13, 1985. Amended and passed the Senate June 20, 1985. Conference report (H.Rept. 99-236) passed the House and Senate Aug. 1, 1985. Signed into law Aug. 15, 1985.

P.L. 99-103, H.J.Res. 388

Continuing appropriations, 1986. Among other provisions, continues authority for ED programs under the current terms and conditions and at a rate of operations not in excess of the current rate through Nov. 14, 1985, or until a regular appropriations bill is enacted, whichever comes first. Reported by the House Committee on Appropriations (H.Rept. 99-272) Sept. 17, 1985, as an original measure. Passed House Sept. 18. Reported by the Senate Committee on Appropriations, unamended, Sept. 24 (S.Rept. 99-142). Passed the Senate, unamended, Sept. 25. Signed into law Sept. 30, 1985.

P.L. 99-154, H.J.Res. 441

Continuing appropriations, 1986. Among other provisions, continues authority for ED programs under the current terms and conditions of the FY85 appropriation through Dec. 12, 1985, or until a regular appropriations bill is enacted. Introduced Nov. 5, 1985; referred to Committee on Appropriations. Called up by rule (H.Res. 312) and passed House amended, Nov. 12. Passed Senate without amendment Nov. 13. Signed into law Nov. 14, 1985.

P.L. 99-177, H.J.Res. 372

Debt Ceiling Increase Act. Among other provisions, contains special Federal expenditure reduction rules for the Guaranteed Student Loan Program. Engrossed and deemed passed by the House Aug. 1, 1985. Reported (S.Rept. 99-144) by the Senate Committee on Finance and passed by the Senate, amended, Oct. 10. House disagreed to Senate amendments, Oct. 11. Conference report (H.Rept. 99-351) filed in disagreement, Nov. 1. Second conference report (H.Rept. 99-433) agreed to by House and Senate Dec. 12. Signed into law Dec. 12, 1985.

P.L. 99-178, H.R. 3424

Departments of Labor, Health and Human Services, and Education Appropriations Bill, 1986. Among other provisions, funds ED programs at $17.5 billion, "freezing" most programs at their FY85 funding level with some exceptions including reducing the GSL program funds by $1.1 billion below the FY85 level. Reported as an original measure by the Committee on Appropriations (H.Rept. 99-289) Sept. 27, 1985. Passed the House, amended, Oct. 2, 1985. Amended and reported by the Senate Committee on Appropriations (S.Rept. 99-151) Oct. 4, 1985. Passed the Senate amended Oct. 22, 1985. Conference report ordered printed Nov. 21, 1985, H.Rept. 99-402. Conference report as modified was accepted by the House, Dec. 5 and the Senate, Dec. 6, and signed into law, Dec. 12, 1985.

P.L. 99-272, H.R. 3128

Omnibus Budget Reconciliation Act of 1985. Among other provisions, amends requirements for loan guaranty agencies and loan collection procedures related to postsecondary student financial assistance programs of the Higher Education Act, extends the Guaranteed Student Loan program through FY88, and makes technical amendments to the authorization for the Student Loan Marketing Association; report language (p. 271) estimates that these amendments will achieve an estimated cost savings of $201 million in FY86, $252 million in FY87, and $415 million in FY88. Reported (H.Rept. 99-300) as an original measure by the Committee on the Budget, Oct. 3, 1985. Passed the House, amended, Oct. 24, 1985. S. 1730 introduced as an original measure. Reported by the Senate Committee on the Budget (S.Rept. 99-146) Oct. 2, 1985. Indefinitely postponed in the Senate Nov. 14, 1985 and H.R. 3128, as amended, passed in lieu. The Senate-passed bill is similar to H.R. 3500 bill but would also reduce the special allowance yield to the lenders and accelerate Sallie Mae's debt repayment schedule but would not apply a need test to GSL recipients with incomes below $30,000. The House-passed version of H.R. 3128 contains no provisions related to ED programs, but on Dec. 3, 1985, the House passed a resolution combining the language of H.R. 3500, as passed the House with the language of H.R. 3128. Conferees met to resolve difference. Conference report (H.Rept. 99-453) was agreed to in the House and Senate on Mar. 20, 1986. Signed into law April 7, 1986.

S.Con.Res. 32 (Domenici)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funds for ED programs. Reported (S.Rept. 99-15) as an original measure by Committee on the Budget Mar. 20, 1985; considered, amended, and passed the Senate May 9, 1985. Amended by incorporating the provisions of H.Con.Res. 152 and passed the House May 23, 1985. Conference report (H.Rept. 99-249) passed the House and Senate Aug. 1, 1985.

Angela M. Evans

MLC-015

EDUCATION FUNDING ISSUES: FY87

...increased funding for selected ED programs...

The Reagan Administration proposed reductions in FY86 and FY87 budget authority for certain education programs; redirection of the Federal role in education; the elimination of certain categorical programs with relatively low FY86 funding levels; and an increase above the FY86 funding level for selected programs. The FY87 request for the Department of Education (ED) programs was $15.2 billion, 15% below the FY86 post-sequestration funding level for these programs of $17.9 billion. The largest portion of the proposed cuts in FY87 budget authority, $1.8 billion, was for the Federal postsecondary student financial assistance programs. The FY87 request for ED also contained proposals to initiate programs including vouchers and tuition tax credits for elementary and secondary education, and income contingent loans and educational savings accounts for college costs. The Administration also proposed $1.1 billion in FY86 rescissions, most of which involved the termination of funding for elementary, secondary and higher education categorical programs or the reduction in funding for selected programs for which the Administration proposed major legislative changes.

In response to the FY87 budget request Congress completed action on several budget and appropriation proposals. The Congress rejected the proposed rescissions for ED, but passed urgent supplemental appropriations for FY86 including additional sums for the Pell Grant ($146 million) and impact aid ($20 million) programs. Congress reached agreement on the first concurrent resolution on the Budget for FY87 (S.Con.Res. 120), which recommended increased funding for selected ED programs, and assumed savings in part achieved through changes in selected higher education programs on June 25, 1986. Both the House and Senate reported reconciliation measures involving savings in GSL and facilities loans on July 31, 1986 (H.R. 5300 and S. 2706). On July 31, 1986, the House passed H.R. 5233, which defers FY87 funding for most postsecondary education programs, but would provide an average increase over the FY86 level of 8.1% for other Department of Education programs for FY87. The Senate Committee on Appropriations reported its version of H.R. 5233 (S.Rept. 99-408) on August 15, 1986 with do deferrals and a total ED funding level of $18.961 an increase of 16.6% above the budget request and 6.1% above the comparable FY86 appropriation.

LEGISLATION

P.L. 99-349, H.R. 4515
Urgent Supplemental Appropriations for FY86. Among other provisions recommends $146 million for the Pell Grant Program and $20 million in additional FY86 funds for the impact aid disaster assistance program. Reported as an original measure from the House Committee on Appropriations (H.Rept. 99-510) on Mar. 25, 1986. Passed the House May 8, 1986. Reported amended by Senate Committee on Appropriations, S.Rept. 99-301 on May 15, 1986. Conference report (H.Rept. 99-649) passed the House and Senate on June 25, 1986. Signed into law July 2, 1986.

P.L. 99-366, H.J.Res. 672
A joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to automatic spending reductions provided under P.L. 99-177. Called up by the House rule and passed July 17, 1986. Passed without amendment in Senate in lieu of S.J.Res. 374, July 17, 1986. Signed into law July 31, 1986.

H.R. 5233 (Natcher)
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1987. Would provide FY87 appropriations for all ED programs, except certain postsecondary education and other programs lacking FY87 authorizations. Introduced and reported by the House Committee on Appropriations, July 24, 1986 (H.Rept. 99-711). Passed by the House on July 31, 1986. Reported by the Senate Committee on Appropriations, amended (S.Rept. 99-804) providing $18.961 billion on ED programs, $3.7 billion above the budget request on Aug. 15, 1986.

H.R. 5300
Omnibus Budget Reconciliation Act of 1986. Provides for reconciliation persuant to the First Concurrent Resolution on the Budget. Although specific reconciliation legislation directed at ED programs is not contained in the bill as reported, the report (H.Rept. 99-727 p.2) does specify that the savings assumed in S.Con.Res. 120 are to be achieved through amendments to the Higher Edcuation Act currently being considered by a conference committee. These savings include $425 million in cumulative budget authority (FY87-89) or the GSL program and cumulative outlays of $395 million for the GSL program and $799 million in outlays for the sale of facilities loan portfolios. Reported as an original measure, Rept. no. 99-727 on July 31, 1986.

H.Con.Res. 337 (Grey)
First Concurrent Resolution on the Budget for FY87. Among other provisions would reduce by 2 1/2% most discretionary programs from the FY86 level (post-sequestration); increase ED programs servicing low-income students, fully fund teacher scholarship programs, and achieve savings through GSL reforms and the sale of loan portfolios on college housing and acedemic facilities loans. Introduced and reported as an original measure (H.Rept. 99-598, Parts I & II), May 13, 1986. House passed S.Con.Res. 120, amended, in lieu of H.Con.Res. 337, May 15, 1986. See S.Con.Res. 120 for subsequent action.

S. 2706 (Dominici)
Sixth Omnibus Budget Reconciliation Act, 1986. Among other provisions includes leiglsative proposals for the GSL and academic loan programs to implement the savings assumed in S.Con.Res. 120. The legislative proposals for the GSL program, which would make programmatic changes affecting student eligibility and lender yield on loans are similar to those contained in S. 1965, as passed the Senate. An Additional provision would require the return of $20 million in FY87 of state guarantee agency loan advances. The reconciliaiton language also supports the sale of academic facilities loan and college housing loan properties. Cumulative savings (FY87-91) of $2.3 billin in budget authority and $2.7 billion in outlays are estimated to result from these proposed changes. Reported as an original measure (S.Rept. 99-348) on July 31, 1986.

S.Con.Res. 120 (Domenici)
First Concurrent Resolution on the Budget, FY87. Among other provisions would "freeze" most ED programs at the FY86 level adjusted for the automatic spending decreases mandated under the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177. Assumes savings of $100 million from reductions in the Chapter 2 program and assumes savings resulting from the implementation of changes to the GSL program contained in the FY85 reconciliation measure (H.R. 3128) and the Senate-reported provisions of S. 1965 (Higher Education Act reauthorization). Assumes increase funding of $400 million for selected "need-based" programs, such as Chapter 1, Pell Grants and the Education of the Handicapped Act. Reported as an original measure by the Senate Budget Committee, Mar. 24, 1986. Amended and passed the Senate, May 2, 1986. See entry for H.Con.Res. 337 for House action. House and Senate agreed to the conference report (H.Rept. 99-664) on June 25, 1986.

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MLC-016

HIGHER EDUCATION ACT: REAUTHORIZATION ISSUES

...both Houses pass reauthorization bills...

The Higher Education Act (HEA) of 1965 authorizes assistance to nearly 12.3 million students and 3800 institutions of higher education. During the 1986-87 academic year, Federal spending for all HEA programs is expected to exceed $9 billion with about 90% of that spending directed toward the five major Federal student financial aid programs (Pell Grants, Guaranteed Student Loans, Supplemental Educational Opportunity Grants, National Direct Student Loans, College Work Study) authorized under Title IV.

Extension and revision of the Higher Education Act were significant issues in the 99th Congress. Both the House and the Senate passed bills (S. 1965, H.R. 3700) to reauthorize the Higher Education Act. Each bill addresses the Federal role in higher education policy; student aid -- access to and choice of institutions, cost of education, loan defaults, the rising debt burden of students, grants vs. loans; institutional aid, and quality of graduate and undergraduate education; special emphasis programs and student support for non-traditional students (adult, less- than full-time).

H.R. 3700 would extend student aid, institutional aid, and special emphasis programs through FY91 with an authorization level of $11.6 billion in FY88, and would add a number of new program authorities especially in the areas of non-traditional student support, education personnel development, and graduate education. In addition, H.R. 3700 would establish a single need analysis system to determine eligibility for all Title IV student assistance programs. S. 1965 would extend both student and institutional aid programs through FY91 with an authorization level of approximately $9.6 billion in FY88, but would eliminate the authorization for some current special emphasis programs, including education outreach programs, most teacher development and training programs and the urban university grant program. S. 1965 would maintain a separate need analysis system for the Pell Grant program for undergraduates and create a single need analysis for all other Title IV student assistance programs, excluding the State Student Incentive Grant program.

LEGISLATION

H.R. 3700 (Ford et al.)
Higher Education Amendments of 1985. Amends and extends the HEA of 1965. Introduced Nov. 6, 1985; referred to Committee on Education and Labor. Reported Nov. 20, 1985, H.Rept. 99-383. Debated and amended by the House, Dec. 3 and 4; passed the House Dec. 4, 1985 (350 to 67).

S. 1965 (Stafford et al.)
Higher Education Amendments of 1985. Introduced Dec. 17, 1985; referred to the Committee on Labor and Human Resources. Reported Mar. 19, 1986 (S.Rept. 99-296). Senate passed S. 1965 June 3, 1986 by a roll call vote of 93 to 1. On June 17 the House passed S. 1965 with the text of H.R. 3700 inserted. On July 14, 1986 the Senate asked for conference. The House agreed to conference on July 24, 1986. Conference on S. 1965 began on July 29, 1986.

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MLC-017

STUDENT FINANCIAL AID PROGRAMS: FY86 BUDGET

...student aid comprises 45% of ED budget...

The Reagan Administration's FY86 budget requested a $1.4 billion reduction in Department of Education postsecondary student aid programs, which the Department estimated would end assistance for more than 1 million students. Administration proposals to reduce the budget would have virtually eliminated grants, loans, and work-study aid for moderate income students, and limited the amount of such aid for any one eligible needy student to $4,000 per academic year. The Congress rejected those proposals in FY86 appropriations legislation, H.R. 3424, and in its action on the First Concurrent Resolution on the Budget for FY86, S.Con.Res. 32. The Congress has, however, made certain changes in student aid programs, primarily the Guaranteed Student Loan program, under the Consolidated Omnibus Budget Reconciliation Act, P.L. 99-272.

The application of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) on Mar. 1, 1986 resulted in a 4.3% reduction in FY86 budget authority for most student assistance programs except GSLs, which had more limited reductions under a special rule.

Since FY82 the Administration has recommended reductions in funding for student aid programs, which currently comprise 45% of the ED budget. The Congress has rejected making fundamental changes in student aid programs through the appropriations process, although it made major cuts in such programs through reconciliation legislation enacted in 1981 and 1986.

LEGISLATION

P.L. 99-178, H.R. 3424
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1986. Includes $4.887 billion for Student Financial Assistance and $3.3 billion for Guaranteed Student Loans for FY86. Reported by the House Committee on Appropriations Sept. 26, 1985 (H.Rept. 99-289). Passed House, amended, Oct. 2, 1985. Reported by Senate Committee on Appropriations Oct. 4, 1985 (S.Rept. 99-151). Passed Senate, amended, Oct. 22, 1985. House agreed to conference report Dec. 5, 1985 (H.Rept. 99-402). Senate agreed to conference report Dec. 6, 1985. Signed into law Dec. 12, 1985.

P.L. 99-272, H.R. 3128
Consolidated Omnibus Budget Reconciliation Act of 1985. Among other provisions, amends requirements for loan guaranty agencies, and loan distribution and collection procedures relating to the GSL program and extends the GSL program through FY88. Authorizes Federal student loan consolidation. Makes technical amendments to the authorization for the Student Loan Marketing Association. H.R. 3500 reported as an original measure by the House Committee on the Budget, Oct. 3, 1985 (H.Rept. 99-300). Passed House, amended, Oct. 24, 1985. S. 1730 introduced as an original measure and reported by the Senate Committee on the Budget Oct. 2, 1985 (S.Rept. 99-146). Indefinitely postponed in the Senate Nov. 14, 1985, and H.R. 3128, as amended, passed in lieu. Language of H.R. 3500 as passed by the House and H.R. 3128, as passed by the House combined as H.R. 3128. COnference report on H.R. 3128 issued Dec. 19, 1985 (H.Rept. 99-453). Signed into law Apr. 7, 1986 (P.L. 99-272).

P.L. 99-349, H.R. 4515
Urgent Supplemental Appropriations for FY86. Among other provisions, provides $146 million in new budget authority for Pell Grants. Reported as an original measure from the House Committee on Appropriations (H.Rept. 99-510) on Mar. 25, 1986. Passed the House May 8, 1986. Reported amended by Senate Committee on Appropriations, S.Rept. 99-301 on May 15, 1986, which provides, in addition to $20 million for the impact aid program, $146 million for the Pell Grant program. Conference report (H.Rept. 99-649) passed House and Senate on June 25, 1986 providing $146 million for the Pell Grant program and $20 million for the impact aid program. Signed into law July 2, 1986.

H.Con.Res. 152 (W. Gray)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funding for ED programs. Reported (H.Rept. 99-133) May 17, 1985. Passed the House May 23, 1985. Laid on table in House, with S.Con.Res. 32 passed in lieu.

S.Con.Res. 32 (Domenici)
First Concurrent Resolution on the Budget for FY86. Among other provisions, makes a series of recommendations on funds for ED programs. Reported (S.Rept. 99-15) as an original measure by Committee on the Budget Mar. 20, 1985; considered, amended, and passed the Senate May 9, 1985. Passed House, amended, May 23, 1985. Conference report agreed to by House and Senate Aug. 1, 1985 (H.Rept. 99-249).

Charlotte Jones Fraas

MLC-018

STUDENT FINANCIAL AID PROGRAMS: FY87 BUDGET PROPOSALS

...no support for President's student aid budget...

The Reagan Administration's FY87 budget requests a $1.8 billion reduction in Department of Education postsecondary student aid programs from FY86 levels after sequestration under the Balanced Budget and Emergency Deficit Control Act (P.L.99-177 -- Gramm-Rudman-Hollings). The Department estimates that assistance would end for about 1.3 million students under its proposed budget. Policy changes proposed by the Administration to effect the budget reduction would virtually eliminate grants, loans and work-study aid for moderate income students, by requiring higher contributions from students and their families to meet educational costs. Major savings are also expected through reducing Federal loan subsidies and increasing students' cost of borrowing under student loan programs.

The FY87 budget request for ED's student financial assistance account is $3,812.6 million and for Guaranteed Student Loans (GSL) is $2,329.6 million. These requests for FY87, which total $6,142.2 million are a decrease of 24% from comparable FY86 post-sequestration levels. The Administration also indicates that it may request a supplemental appropriation of $65 million for FY86 for the GSL account to pay for shortfalls. The budget also had requested rescissions totalling $456.3 million from the FY86 post-sequestration funding for the campus-based and State Student Incentive Grant programs, but since they were not accepted by Congress within 45 days after the request, they are now moot.

Student aid comprised 45% of the ED FY86 budget. Since FY82 the Administration has recommended reductions in program funding through policy changes. So far, Congress has rejected making fundamental changes in student aid programs through the appropriations process. Congressional action on the Department of Education appropriations shows virtually no support for the President's proposed FY87 student aid budget. The reconciliation measures, as reported by the House and Senate Budget Committees and based on the First Concurrent Resolution on the Budget, do contain provisions that would change the GSL program.

LEGISLATION

H.R. 5233 (Natcher)

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987. Includes $3,394 million in budget authority for Guaranteed Student Loans for FY87, and defers action on the Student Financial Assistance budget account pending the authorization of programs for FY87. Introduced and reported July 24, 1986 (H.Rept. 99-711). Passed House, amended, July 31, 1986. Amended and reported by the Senate Committee on Appropriations (S.Rept. 99-804) on Aug. 15, 1986. Includes $3,004 million for GSLs, $3,900 million for the Pell Grant program (including $100 million to be used to partially offset the FY86 shortfall), and funding levels for the other student financial aid programs that equal the FY86 levels before sequestration was implemented.

S.Con.Res. 120 (Domenici)

An original concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1987, 1988, and 1989. Assumes increased funding for Pell Grants in FY87 and savings under the Guaranteed Student Loan program. Introduced and reported by the Senate Committee on the Budget Mar. 24, 1986 (S.Rept. 99-264). Passed Senate, amended, May 2, 1986. House and Senate agreed to conference report (H.Rept. 99-664) on June 25, 1986.

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ELECTIONS

MLC-019

CAMPAIGN FINANCING/PUBLIC FINANCING

...what is the best method?...

The financing of Federal election campaigns is a complex subject comprising many issues. If one issue relative to campaign financing can be isolated from the others and considered to be of paramount concern, it is the source of political campaign money: whether congressional campaign funds should be derived solely from private contributions as in the past, or whether the method of financing political campaigns for Federal offices should be changed to a public financing system and, if so, in what way. The Federal Election Campaign Act (FECA) was passed in 1971 (P.L. 92-225, 86 Stat. 3 (1972)). It has been amended three times by P.L. 93-443 (88 Stat. 1263 (1974)); P.L. 94-283 (90 Stat. 485 (1976)); and P.L. 96-187 (93 Stat. 1339 (1980)). The Revenue Act of 1971 (P.L. 92-178, 85 Stat. 573) established a fund to finance Presidential campaigns by the $1.00 tax check-off on Federal income tax forms. These Acts comprise the laws regarding campaign financing of Federal elections.

Public Financing of Congressional Campaigns

At present, public financing is available to Presidential candidates in both the primary and general election campaigns. But public financing is not presently available to congressional candidates. The new tax simplification plan introduced on May 28, 1985, by the Administration would eliminate the tax check-off provision for Presidential public financing. Without the tax check-off provision whereby $1 ($2 for a joint return) is designated to the Presidential Election Campaign Fund, public financing for Presidential elections may be eliminated.

Because of the soaring costs of congressional elections and because of the increasing involvement of political action committees (PACs) in the financing of congressional elections, public financing proposals in Congress for congressional candidates have been receiving more attention as ways to get "corrupt and excessive" money out of congressional elections. Public financing proposals offer to congressional candidates alternative methods for financing their campaigns so that they do not have to rely on PACs. However, the major [but by no means the only] argument against public financing is that it would require a significant amount of Federal funds to finance such a program, and a major expansion of the Federal election commission bureaucracy to administer it. Public response to such expenditures in times of budget stringency is by no means clear.

Public financing proposals in Congress have been quite diverse and have taken on the following forms: (1) direct subsidy proposals, (2) electronic media subsidy proposals, (3) postal subsidy proposals, and (4) tax credits or tax deductions for all or a percentage of contributions to congressional campaigns. Many public financing proposals for congressional candidates provide for certain conditions to receiving public funds such as: (1) limitations on expenditures, (2) limitations on expenditures from personal funds, (3) limitations on media expenditures, and (4) overall aggregate limitations on contributions by PACs.

Proposals to Limit Contributions By PACs to Congressional Candidates

Because of the phenomenal growth of PACs and the substantial amounts of money which have been raised, contributed, or spent on congressional elections by them, legislation has been proposed in Congress to limit contributions by PACs. Two basic proposals have been advanced which would further restrict PAC contributions to congressional candidates: (1) a proposal to reduce the present contributions limitation of $5,000 per election to a congressional candidate to a lesser amount, such as $2,500 or $1,000 per election to a congressional candidate, and (2) a proposal to impose an aggregate limitation on the amount which a congressional candidate could receive from all PACs in a 2-year election cycle.

Boren Amendment to Limit PACs

The Senate, on Dec. 3, 1985, by a vote of 84-7, rejected a motion to table a campaign finance reform proposal by Senator David L. Boren which was offered as an amendment to S. 655, dealing with low-level radioactive waste. However, there was no indication when the PAC reform proposal would be before the Senate again for a vote. The Senate Rules and Administration Committee held hearings on Jan. 22 and Mar. 27, 1986, regarding the Boren proposal and other campaign finance reform bills.

The Boren amendment to S. 655 is similar to S. 1806, which was introduced by Senator Boren on Oct. 29, 1985. Under these proposals, House candidates could receive a maximum of $100,000 in PAC contributions plus an additional $25,000 if there was opposition in both the primary and general elections. Senate candidates would be limited in the amounts of PAC contributions, which range from $175,000 to $750,000, depending on the size of the State. Moreover, the ceiling on PAC contribution limitations would be lowered from $5,000 to $3,000 per election, and the ceiling on individual contribution limitations would be increased from $1,000 to $1,500 per election. These proposals also would require television and radio broadcasters to provide free response time to candidates who are the subjects of negative advertising by PACs engaged in independent expenditures. (See generally the summary of S. 1806 *infra*.)

On Aug. 12, 1986, after much floor debate, the Senate adopted the Boren Amendment by a vote of 69-30. After adopting the Boren proposal, the Senate voted, 58-42, in favor of another campaign finance reform proposal offered by Senator Rudy Boschwitz. The Boschwitz proposal would amend the FECA to do the following: (1) prohibit PACs from making contributions to the national political parties; (2) provide for the disclosure by political parties of their "soft money" funds; and (3) repeal the Boren Amendment provision providing for free broadcast time to candidates who are politically attacked by PACs and individuals using independent expenditures for negative political advertisements on radio or television.

LEGISLATION

H.R. 122 (Jacobs)
Amends the Federal Election Campaign Act of 1971 to provide for public financing of advertising and related expenses in campaigns for the House of Representatives and to prohibit contributions by multicandidate political committees to candidates who accept such financing.

Provides that each candidate in an election for the House of Representatives shall be entitled to: (1) a 90-minute allotment of television time, divided as the candidate chooses provided that each appearance on television is at least 5 minutes long; (2) an allotment of 135 minutes of radio time, divided as the candidate chooses provided that each appearance on radio is at least 5 minutes long; (3) an allotment of 126 column inches or one page, whichever is greater, of newspaper advertising, divided as the candidate chooses provided that no individual advertisement uses less than ten column inches; or (4) an allotment of any costs incurred in the installation of telephones and other equipment for a question-and-answer format if such a format is used during a candidate's allotment time on television or radio. Provides that a candidate for the House of Representatives may be eligible to receive such a campaign allotment by arranging in advance for each advertisement and by submitting to the Federal Election Commission no later than 10 days before the election a schedule of such advertisements. Provides that a candidate must certify to the Commission that such candidate will not make expenditures from his personal funds, the personal funds of his immediate family, or funds donated to his campaign committee for any of the purposes for which such candidate accepts such campaign allotment. Provides further that a candidate who accepts any contribution from a multicandidate political committee with respect to an election shall not be eligible to receive a campaign allotment with respect to such elections. Introduced Jan. 3, 1985; referred to Committee on House Administration.

H.R. 761 (Stratton)
Free Political Broadcasting Act of 1985. Provides free radio and television time to candidates for election to Federal office. Provides that the Federal Election Commission shall establish the eligibility of candidates for such free broadcast time. Provides for various allotments of broadcast time to Federal office candidates depending on the office being sought. Appearances on news programs and public service programs shall not be considered attributable to the free broadcast time allotment of such candidate. Provides that the equal opportunities requirements of section 315 of the Communications Act of 1934 shall not be applicable in the case of the use of radio and television facilities for free broadcast time. Introduced Jan. 28, 1985; referred to Committee on House Administration.

H.R. 1284 (Udall and Frenzel)
Establishes a Bipartisan Commission on Congressional Campaign Financing so as to improve the manner in which congressional campaigns are financed. Provides that the commission would be an eleven-man commission to study the existing system of campaign financing and make recommendations for improving it. Provides that two members of the commission would be chosen by the Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader, for a total of eight members. Provides that the Republican and Democratic National Chairmen would get one appointment each and that the eleventh person would be chosen jointly by the Senate majority leader and the Speaker of the House. Requires the commission to report back to Congress its recommendations within one year of the date that the bill is enacted. Authorizes the commission to hold hearings, and take necessary testimony. Introduced Feb. 26, 1985; referred to Committee on House Administration.

H.R. 2906 (Grotberg)
Voter Interest and Participation Act of 1985. Provides for increases in the limitations on contributions by persons other than multicandidate political committees to candidates and political committees. Provides that no limitation shall apply to contributions or expenditures by a political committee of a political party with respect to a congressional general or special election. Introduced June 27, 1985; referred jointly to the Committees on House Administration, Ways and Means, and Post Office and Civil Service.

H.R. 3863 (Frenzel et al.)
Federal Election Campaign Act Amendments of 1985. Amends the Federal Election Campaign Act of 1971 to increase the role of political parties in financing campaigns. Provides that certain payments to political committees of political parties are not to be considered as contributions and expenditures under the Act. Such payments would include payments to such committees specifically designated to defray the establishment, administration, and solicitation costs of such committees.

Provides that no multicandidate political committee which is a political committee of a political party shall make contributions to any candidate or to his or her authorized political committees which in the aggregate exceed $15,000. Provides that nothing in the Act shall prevent a political committee of a political party from engaging in bona fide commercial transactions from which the proceeds are used solely to defray the establishment, administration, and solicitation costs of the committee. Introduced Dec. 5, 1985; referred to the Committee on House Administration.

H.R. 4072 (LaFalce)
House of Representatives Campaign Finance Reform Act of 1986. Reduces the amount of contributions that multicandidate political committees may make to Federal candidates in any election from $5,000 to $3,000. Also reduces the amount of contributions that multicandidate political committees may make to other political committees from $5,000 to $3,000. Provides that nonparty multicandidate political committees shall not make to any Federal candidate for the House of Representatives aggregate contributions which exceed $100,000 ($125,000 if at least two candidates qualify for the general and primary elections) for any general or special election which would include any primary election, convention or caucus.

Amends section 315(a) of the Communications Act of 1934 by providing that if any broadcast licensee permits a person to utilize a broadcasting station to broadcast material which either endorses a legally qualified candidate for any Federal elective office or opposes a legally qualified candidate for that office, such licensee shall, within a reasonable period of time, provide to any legally qualified candidate opposing the candidate endorsed, or to any legally qualified candidate who was so opposed (or to an authorized committee of such legally qualified candidate), the opportunity to utilize, without charge, the same amount of time on such broadcasting station, during the same period of the day, as was utilized by such person.

Provides for public financing for candidates for the House of Representatives. Provides that qualified candidates for the House within 7 days after qualifying for the election ballot shall agree: (1) to comply with the appropriate reporting and disclosure requirements of the Federal Election Commission (FEC or Commission); (2) to cooperate with the FEC in regard to any audit or examination; (3) to abide by the appropriate contribution and expenditure limitations. Requires such candidates to certify to the FEC that such candidates and their authorized committees have received contributions aggregating not less than $20,000 in order to receive the initial matching payment of $20,000.

Provides for limitations on expenditures from personal funds of such candidate or the funds of any immediate family member of such candidate in the aggregate amount of $50,000. Eligible House candidates shall be entitled to an initial payment of $20,000 and additional matching payments equal to the amount of contributions received to be paid in multiples of $10,000. Requires that the total of payments to a House candidate shall not exceed 50% of the total expenditure limitation of $250,000 ($125,000).

Provides that no contribution received from any individual who resides in a state other than the state in which the election is held shall be matched in regard to the additional multiples of $10,000 to the extent that such contribution when added to all other contributions received from such individuals exceeds 25% of the aggregate of contributions otherwise matchable. Provides that, if major party candidates for the House who have received contributions aggregating $20,000 have not become eligible candidates for public financing, the eligible candidates for public financing will not be bound by expenditure limitations.

Provides further that, if, with respect to an election, a total of more than $5,000 in independent expenditures is made in opposition to, or on behalf of an opponent of, a candidate who is eligible to receive payments, such candidate shall receive additional payments equal to such total. Also provides that any person who makes independent expenditures shall notify the Commission and each candidate in the election not later than 48 hours after such independent expenditures total more than $5,000 and thereafter shall make such notification each time such person's additional independent expenditures total $2,500 or more.

Provides that the Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund a separate account to be known as the House of Representatives Election Campaign Account. Provides that the FEC shall be authorized to do such things as: (1) make certifications to the Secretary of the Treasury for payments to eligible candidates; (2) make examinations and audits of the campaign accounts of eligible candidates and requiring repayments when necessary; and (3) make annual reports to the House of Representatives regarding such public financing, enforcing the provisions of this Act and seeking judicial review. Introduced Jan. 29, 1986; referred to Committee on House Administration.

S. 297 (Boren)
Amends the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections. Limits to $75,000 the amount a House candidate can accept from all PACs in each election cycle. Limits Senate candidates to an amount that would vary with the population of their State from a low of $75,000 to a high of $500,000. Raises the PAC limitation to $100,000 if two or more candidates qualify for the ballot in the primary and general election. Allows an additional $25,000 in PAC money in the event of a Senate or House runoff election. Increases individual contributions limitations to Federal office candidates from $1,000 to $2,500 per election. Introduced Jan. 24, 1985; referred to Committee on Rules and Administration.

S. 323 (Proxmire)
Clean Campaign Act of 1985. Amends the Federal Election Campaign Act of 1971 to limit contributions by nonparty multicandidate political committees in senatorial campaigns. Also provides for public financing of general election campaigns for senatorial campaigns. Provides that eligible senatorial candidates may not make expenditures in a campaign in excess of $600,000 plus 5 cents multiplied by the voting-age population in the State. Provides that individual contributors making contributions to qualified senatorial candidates be granted a 100% tax credit up to $200 for individual returns ($400 for a joint return). Provides for the suspension of expenditure limitations and reduced postal rates for qualified candidates when any candidate in the general election has not become a qualified candidate. Provides for reduced postal rates, when a total of more than $5,000 in independent expenditures is made in opposition to, or on behalf of, an opponent of a qualified candidate. Provides for certification by the FEC of the eligibility of candidates as well as for the examination and audits by the FEC of the campaign accounts of 10% of the qualified candidates. Introduced Jan. 31, 1985; referred to Committee on Finance.

S. 471 (Dodd and Melcher)
Amends the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1954 to provide a 100% tax credit for small contributions to senatorial candidates who agree to abide by an overall spending limit and a limit on the use of personal funds. Provides that in order for a candidate to receive tax creditable contributions, the candidate must have received threshold contributions of 5% of the expenditure limitation for the State which is determined by a formula

using the State's voting age population. Provides that a contributor can get a 100% tax credit for contributions up to $100 with a maximum available credit of $200 to all qualified candidates in an election. The expenditure limitations for candidates would be equal to $500,000 plus 15 cents for each person of voting age in the State plus the amount that is presently permitted for expenditures by political parties. Provides that the overall expenditure limitations and the limitations on the use of personal funds would be lifted for a qualified candidate, if an opponent chose not to participate in the tax credit system. Provides that a qualified candidate would be eligible for an equal amount of free broadcast time in situations in which a broadcast station carries independent expenditure ads in opposition to a qualified candidate or in support of a candidate's opponent. Introduced Feb. 19, 1985; referred to Committee on Finance.

S. 528 (Rudman et al.)
Establishes a Bipartisan Commission on Congressional Campaign Financing so as to improve the manner in which congressional campaigns are financed. Provides that the commission would be an eleven-man commission to study the existing system of campaign financing and make recommendations for improving it. Provides that two members of the commission would be chosen by the Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader, for a total of eight members. Provides that the Republican and Democratic National Chairman would get one appointment each and that the eleventh person would be chosen jointly by the Senate majority leader and the Speaker of the House. Requires the commission to report back to Congress its recommendations within one year of the date that the bill is enacted. Authorizes the commission to hold hearing, and take necessary testimony. Introduced Feb. 28, 1985; referred to Committee on Governmental Affairs. Reported to Senate with amendment in the nature of a substitute Aug. 13, 1986 (no written report).

S. 655 (Boren Amendment)
(See S. 1806 below)

S. 1787 (Mathias et al.)
Senatorial Election Campaign Act. Amends the Federal Election Campaign Act of 1971 to provide for public financing of Senate general election campaigns. Provides that any major or minor party candidate would be eligible for public financing if at least two major party candidates or a major party and a minor party qualified for the general election ballot. Provides further that candidates other than a major party or minor party candidate could receive postelection funding if they received 5% or more of the vote. Provides for various expenditure limitations depending on the voting age population of the State.

Provides that, when opponents elect not to accept public funding, eligible candidates would be entitled to additional public funds in an amount equal to the amount by which opponents exceeded the expenditure limitations. Provides for a voluntary tax check-off on individual tax returns to fund the public financing. Introduced Oct. 24, 1985; referred to the Committee on Rules and Administration. Hearings held Jan. 22 and Mar. 27, 1986.

S. 1789 (Kerry)
Deficit Reduction Campaign Finance Reform Act. Amends the Federal Election Campaign Act of 1971 to provide for the public financing of senatorial general election campaigns by eliminating the tax credit for political contributions and applying the foregone revenue to the Senate general election campaign fund.

Provides that any major or minor party candidate would be eligible to receive public financing for a general election campaign. Provides that eligible candidates would be subject to certain expenditure limitations which would be calculated according to the voting age population of the States. Provides further that eligible candidates whose opponents have elected not to receive public financing would be entitled to an additional amount of public funds which would be equal to the amount by which the opponents exceeded the expenditure limitations.

Provides that the Secretary of the Treasury shall maintain an account known as the Senate General Election Campaign Fund. Requires that the Secretary shall deposit into such fund an amount equal to $265,000,000 for each fiscal year. Introduced Oct. 24, 1985; referred to the Committee on Finance.

S. 1806 (Boren et al.)
Campaign Finance Reform Act of 1985. (See also, Boren Amendment No. 1168 to S. 655 relating to the low level radioactive waste compact legislation.) Amends the Federal Election Campaign Act of 1971 to change certain contribution limitation provisions. Amends the Communications Act of 1934 concerning the broadcasting of certain material regarding Federal office candidates.

Provides that House candidates are limited to $100,000 which can be accepted from all PACs in each election cycle. Provides that Senate candidates are limited to amounts of aggregate contributions from PACs which would vary from State to State depending on population. For senatorial candidates, the lowest amount would be $175,000 ($200,000 if two or more candidates qualify for the ballot in the primary and general election), and the highest amount would be $750,000 (based on the formula $35,000 times the number of congressional districts).

Allows candidates to be provided equal time without charge from broadcasting stations when candidates are subjected to negative advertisements by an independent expenditure by a political action committee. Introduced Oct. 29, 1985; referred to the Committee on Rules and Administration. Hearings held Mar. 27, 1986. Passed Senate Aug. 12, 1986.

S. 1891 (Heinz et al.)
Federal Campaign Reform Act Amendments of 1985. Amends the Federal Election Campaign Act of 1971 to provide that certain payments to political committees of political parties are not to be considered as contributions and expenditures under the Act. Such payments would include payments to such committees specifically designated to defray the establishment, administration, and solicitation costs of such committees.

Provides that no multicandidate political committee which is a political committee of a political party shall make contributions to any candidate or to his or her authorized political committees which in the aggregate exceed $15,000. Provides also for various amendments to the FEC enforcement provisions. Introduced Dec. 3, 1985; referred to Committee on Rules and Administration. Hearings held Mar. 27, 1986.

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IB73017

ENERGY

MLC-020

ENERGY AND THE 99TH CONGRESS: OVERVIEW

...some differences remain between Administration and Congress...

INTRODUCTION

Perceptions of the national energy problem -- its urgency and how it should be addressed -- have changed significantly in the more than 10 years since the Arab oil embargo. National energy policy during the 1970s was premised upon projections that world petroleum demand would outstrip supply by the mid-1980s and thus that the Federal Government should assume a broad interventionist and supporting role in energy policy.

As the near-term urgency of the energy problem diminished, the nature of the policy response changed. During its first term, the Reagan Adminstration sought to sharply cut Federal spending for energy programs and vigorously opposed government intervention in energy markets; it was, in large measure, successful in these efforts. Energy became one part of a broader economic recovery program predicated on the view that unregulated markets should determine the mix and price of fuels relied upon by the Nation.

Ironically, in the face of sharply slumping prices for crude oil that are currently hurting the domestic oil industry, some are urging that the Administration consider interventionist policies that would prop up the price of domestic oil -- either through an import fee or by taxation. Others favor intervention because they believe that sustained lower prices will cause the Nation to increase imports and become more dependent on foreign supplies. Is the United States as defenseless against low oil prices as it once seemed against high prices? Depending upon perceptions of where oil prices may settle and how long they may be anticipated to remain low, the 99th Congress may still, during the second session, consider some policy courses which are departures from the recent past.

The Changing Role of Government: In 1977, President Carter described the energy dilemma as one which could only be "effectively addressed ... by a Government that accepts responsibility for dealing with it comprehensively and by a public that understands its seriousness and is ready to make necessary sacrifices." This declaration was accompanied by comprehensive energy legislation, some provisions of which were enacted in 1978 in five separate bills that extended authorities to govern energy decisionmaking by industry, institutions, and individuals.

By contrast, the Reagan Administration argued that the expansion of the role of the Federal Government was misguided and counterproductive. Almost immediately after taking office, the new Administration pursued a course of transferring decisionmaking away from the Federal Government.

The Reagan program deemphasized energy as a problem that commands a discrete policy response. Instead, it became part of a "comprehensive Program for Economic Recovery." That program, when fully implemented, would "release the strength of the private sector and ensure a vigorous economic climate in which the Nation's problems, including energy problems, will be solved primarily by the American people themselves...."

The regulatory emphasis had been overwhelming, the Administration noted in an early statement of energy policy. "Experience suggests that national energy policy should break cleanly and candidly with that approach." As a demonstration of its commitment to diminish Federal regulation, the Administration immediately decontrolled petroleum several months ahead of the statutory expiration of controls.

The Administration summarized its policy in 1983 as twofold: (1) continuing to minimize Federal involvement in energy markets while acknowledging the appropriate role of government in protecting the environment, maintaining health and safety standards, and improving energy security; and (2) promoting a "balanced and mixed energy resource system."

While the Carter Administration advanced conservation as the "cornerstone" of its energy program and argued that fossil fuel demand had to be moderated to forestall the depletion of fossil fuel resources, the Reagan Administration rejected what it characterized as the logic of spending more to conserve a barrel of oil than it cost to replace it. To this end, the Administration has supported early stages of research and development of promising high-risk technologies that cannot attract private sector investment. However, with renewed attention on the deficit and controlling Federal spending, this support may well be moderated.

The budget has been the major vehicle for the Administration's energy philosophy. Since assuming office in 1981, the Administration has proposed sharp reductions in spending for energy programs, many hotly contested by Congress, which restored some program cuts. In other instances, Congress and the Administration have "split the difference," but, given the break with historic spending and regulatory patterns stemming from such compromises, the Administration has had a strong impact on Federal energy spending and policy.

The FY87 Budget: The Administration has requested $12.0 billion for FY87 for DOE. This total is slightly more than the estimated budget authority for FY86 after allowing for the amounts sequestered on Mar. 1, 1986, in accordance with the Gramm-Rudman-Hollings Emergency Deficit Control Act. The request reflects a significant reduction in spending for DOE civilian programs while spending for atomic energy defense activities would increase. The civilian portion of the budget would decline from $6.4 billion to $3.8 billion while defense-related spending would increase from $7.2 billion to $8.2 billion.

The sequestration of funds for FY86 does not appear to have placed any DOE programs in major jeopardy. The effect of a sequestration of funds in the DOE budget in FY87 will depend upon the magnitude of the cuts required and the initial level of funding approved by Congress. However, it is anticipated that cuts due to Gramm-Rudman-Hollings, which amounted in FY86 to a reduction of 4.3% in civilian programs and 4.9% in defense programs, could well be more severe in FY87. Congress, in passing its budget resolution (S.Con.Res. 120) in July, agreed to a funding level for energy at $4.85 billion. The House (H.R. 5162 and H.R. 5234) in action on appropriations bills has lowered DOE's request for defense-related activities while raising funding levels for DOE's civilian programs. The appropriations bills were reported out of the Senate Appropriations Committee shortly before the August recess.

HYDROPOWER

Legislation to clarify the intent of Congress in issuing new licenses for existing non-Federal hydropower facilities and an Administration proposal to sell the massive Bonneville Power Administration in the Pacific Northwest as well as the facilities of the other four power marketing administrations (PMAs) are the major hydropower issues in the 99th Congress.

Hydropower Relicensing. The Federal Power Act provides that States and municipalities be given preference over nonpublic entities in applying for licenses to construct and operate hydropower facilities on waterways under Federal control. Despite the preference provision, however, many private utilities have such licenses, which generally have a 50-year life. The Federal Power Act also provides for relicensing such projects, but the role of preference in relicensing has been subject to differing interpretations. Private power interests have argued that preference does not apply when the original licensee applies for a renewal, while public power entities argue that it does.

Legislation eliminating preference for public entities has passed both the House (H.R. 44) and the Senate (S. 426), but by the August break the House/Senate Conference Committee had not resolved the differences between the two versions. The major issue was the degree to which environmental improvements and protection of fish should be used as criteria for issuing a license, with the House Members arguing for stronger provisions. (For further details, see Issue Brief IB84122 -- Hydropower: Public "Preference" in Relicensing.)

Sale of Power Marketing Administration Facilities. The Administration proposed selling federally owned hydroelectric assets including the massive Bonneville Power Administration. The proposal is part of the continuing privatization efforts of the Administration. Sale of the facilities to local or private interests was envisioned to take several years, starting with Bonneville and the Southwestern Power Marketing Administration in 1988. Proponents of privatization or defederalization argue that electric utilities are not a normal Federal responsibility and that non-Federal owners can operate the systems more efficiently. Others fear that valuable hydro resources could be traded for short-term budgetary gains. They maintain that these hydro facilities are integral parts of Federal multipurpose projects and their sale could cause major electric rate jumps for many customers.

Congress reacted strongly to the Administrations's proposal. The House passed the Urgent Supplemental Appropriations Act (H.R. 4515) on May 8, 1986, including a limitation on funds for DOE to study the PMA sale. The Senate passed the Urgent Supplemental Appropriations Act on June 6 including an outright prohibition of any Administration studies or plans to sell DOEs power marketing administrations. The funds cutoff is permanent and prohibits privatization studies without specific congressional approval. Conferees accepted the Senate language and the House and Senate approved the conference report on June 24, 1986.

Although opposed to the prohibition, the President signed into law the 1986 supplemental appropriation bill on July 2. Opponents of the sale fear that efforts to sell the PMAs may be renewed next year in the new budget proposal or in specific legislative requests. (For further details see Issue Brief IB86057 -- Federal Hydropower: The Administration's Proposal to Sell Government Assets.)

OIL

The 99th Congress grappled during the first session with calls for protectionist measures to insulate the domestic refining industry from developments in international markets. And, in the spring of 1986, pressure began to mount from some quarters for interventionist policies to place a floor under the plummeting price of crude oil.

Ever since taking office in 1981, the Reagan Administration has seized most opportunities to affirm its position that markets should allocate fuels and determine their price. Within days of its accession to power, the Reagan Administration exempted gasoline and crude oil from price and allocation controls. The President also vetoed legislation passed in the 97th Congress which would have retained standby discretionary authority to reimpose civilian petroleum price and allocation controls.

In 1985, however, some segments of an industry that had welcomed deregulation began to suggest that new problems were befuddling the marketplace. A number of independent refiners began to urge a tax or quota on inexpensive refined product imports that the independents claimed were contributing to a "shakeout" in the domestic refining industry. The independents also had their eyes upon refineries commencing, or soon to commence, operations in OPEC nations, which may add to the volume of less expensive products available in world markets by the late 1980s. Proponents of import fees or quotas suggested that a further erosion in U.S. refining capacity would make the Nation more dependent once again upon foreign supply, vulnerable to price hikes and -- in a worst case analysis -- without adequate capacity to refine crude from the Strategic Petroleum Reserve during a severe interruption.

However, marketers and integrated refiners argued that many of the refineries affected adversely were smaller, less efficient, refineries constructed during the 1970s in anticipation of continued growth in demand, and to take advantage of then current Federal regulations. Marketers saw little reason to prop up domestic product prices to protect less efficient capacity.

During the first session of the 99th Congress, hearings were held on the issue, but there was little consensus either within or outside the industry that any action was appropriate. Indeed, the precipitous slide in oil prices during 1986 rendered the issue moot: at a time when crude prices are so low, there is little, if any, money to be made by foreign producers by investing in downstream facilities or marketing products abroad. For the moment, worries about product imports have all but vanished. Instead, it is producers, rather than refiners, who are now seeking protection.

Stripper wells, by definition, are wells producing ten or fewer barrels of oil per day. More than 75% of U.S. oil wells are strippers, accounting for approximately 1.3 million barrels of production daily, with average production per well slightly less than three barrels daily. At current prices, it is feared that a significant volume of stripper production may be shut down, capped, or possibly even plugged and abandoned -- to be replaced by imported oil. A recent study by the Interstate Oil Compact Commission estimates that if world prices hover at $15/bbl, more than 200,000 b/d of production will be lost within a year; if price lingers near $10/bbl, the lost production may rise to more than 600,000 b/d.

The jeopardy to domestic producers has renewed calls for imposition of an oil import fee. One proposal to keep the strippers in production suggests dedicating proceeds from an import fee to making purchases for the Strategic Petroleum Reserve at above-market prices from stripper well producers.

Quite apart from protecting the domestic oil industry, an oil import fee has been urged by some as a means of raising revenue and reducing the Federal deficit. An oil import fee would also keep product prices from falling -- which, in turn, would discourage a return to wasteful consumption in the United States. But it is not apparent that there is sympathy outside the oil-producing States, injured by lower oil prices; it is widely perceived that import fees or protectionist measures will neutralize the generally beneficial effects which lower crude and product prices will have for the economy -- that there are more "winners" than "losers" in the United States due to cheap oil. While the signals have been a bit confusing at times, the Administration continues to affirm its belief in free-market pricing for oil; the President has voiced opposition to an oil import fee either as a means of raising revenue or influencing price.

One issue which received legislative attention early in the 99th Congress was the reauthorization of the Export Administration Act. The Trans-Alaska Pipeline Authorization Act (P.L. 93-153) in 1973 prohibited exports of Alaskan oil to non-contiguous foreign countries unless the President made specific findings with the concurrence of Congress. It was widely thought at the time to be a reasonable prohibition, given perceptions then that oil was likely to remain in short and uncertain supply. Subsequent amendments to the Export Administration Act in 1977 and 1979 imposed more severe restrictions on oil exports. Alaskan oil producers have sought to ease the export restriction because Alaskan production might bring higher prices from Japan and Asia, but the domestic maritime industry, which enjoys the commerce of carrying Alaskan oil to U.S. ports on both coasts, has discouraged any change in the law. Others oppose the export of U.S. oil in principle.

The 98th Congress passed simple extensions while deliberating over more comprehensive legislation, which was in conference when Congress adjourned. The legislation was reintroduced in the 99th Congress and passed by both bodies. The conferees settled upon extending the EAA until Sept. 30, 1989, and continuing the prohibition against exports until Sept. 30, 1990. The bill also established a commission to study the consequences of oil exports and to report prior to reconsideration of the Act in the late 1980s.

EMERGENCY PREPAREDNESS

In its initial policy statements about energy emergency preparedness, the Administration declared its strong preference for maximum reliance upon the marketplace to price and allocate petroleum during energy shortages. Congress was largely in agreement that the petroleum price and allocation controls relied upon during the shortages of 1973-74 and 1979-80 had been an inappropriate response for shortage episodes of that magnitude.

However, Congress was insistent that a market-oriented preparedness policy would probably be inadequate during shortages of greater severity. In the face of considerable congressional resistance, the Administration began to reassess publicly its position in early 1984, and announced that it would favor early drawdown of the Strategic Petroleum Reserve as a means of stabilizing markets and (by extension) discouraging panic and price spikes. In July 1984, the Administration persuaded other member nations of the International Energy Agency (IEA) to sign an agreement to explore the option of an IEA-wide coordinated stock drawdown as a policy of early resort in the event of a supply emergency.

Section 252 of the Energy Policy and Conservation Act (EPCA, P.L. 94-163) provides a limited antitrust defense which enables major oil companies to participate in the IEA's oil sharing plan, should it be activated. After some delays, the 98th Congress agreed in March 1984 to extend Section 252 until the end of June 1985. Legislation was introduced in the 99th Congress, H.R. 1699, to extend the authority until June 30, 1989, and also included language to extend EPCA provisions governing the SPR program. A related bill, H.R. 1698, directed the DOE to conduct an actual sale or exchange of 1.1 million barrels of SPR oil within 6 months of enactment. In the past, energy emergency legislation has often become bogged down with provisions added on in committee that were unacceptable to the Administration. In this instance, both the House and Senate committees responsible for reporting out the legislation expressed the wish to keep the bills as straightforward and noncontroversial as possible -- particularly with respect to the IEA extension, for which there was somewhat greater urgency. Both the Senate and House passed their versions of the extensions by significant margins and the legislation was signed into law on July 2, 1985. The bill as enacted included provisions requiring a test sale and drawdown of SPR oil, which was carried out in December 1985 (P.L. 99-58).

The major energy emergency preparedness issue, however, has been the Strategic Petroleum Reserve budget. With increased concern about the Federal deficit and a perception that the likelihood and magnitude of threat has diminished, the Administration persuaded Congress to budget lower fill rates for the Strategic Petroleum Reserve in recent years. In late 1984, the Adminstration proposed a moratorium on further development and fill of the Reserve, and proposed deferring more than $1 billion in spending for the program.

The Administration's position rested on the premise that 500 million barrels would be adequate to provide the measure of security that it was thought, only a few years ago, would have required a much larger Reserve. The Administration also believed that a disruption during the remainder of this decade -- potentially greater in magnitude than those experienced during the 1970s -- is unlikely, and that should perceptions change about the degree of threat, fill can be resumed.

In the FY85 Supplemental Appropriations (H.R. 2577, P.L. 99-88), Congress overturned a deferral of $271 million for development of storage facilities, and retained $290 million to purchase (at prevailing prices) sufficient oil to fill the Reserve during FY86 to 500 million barrels.

In late 1985, DOE sent a letter to Congress announcing the Administration's intention to seek a new deferral of spending, and announced a virtually immediate suspension of construction and fill. In the face of widespread and bipartisan criticism, as well as declining oil prices, the Administration decided to continue fill during the winter to bring the SPR up to 500 million barrels by the spring of 1986.

To little surprise, the Administration renewed efforts to impose a moratorium on the program, this time in its FY87 budget request. Both House and Senate Energy committees reacted with disfavor, especially given the congressional expression just months before in P.L. 99-88 that a moratorium and deferral of spending for the program was unacceptable. At the same time, the General Accounting Office ruled that $156.8 million of the Administration's newest deferral was illegal because it was the same funds Congress had previously restored. The Administration, faced with the certainty of being sued by GAO for illegal impoundment of funds, reluctantly released the funds on Apr. 11, 1986. As a consequence, construction will resume at the SPR's final construction site -- Big Hill -- located in Texas, but it will be at least a few years before storage caverns at that site will be able to accept oil. In the nearer term, the resumption of leaching activities at existing sites will boost the Reserve's capacity to 600 million barrels by the end of FY88.

The decline in lower oil prices also boosted support for a more aggressive fill of the Reserve while, at the same time, eroding the Administration's rationale for a moratorium. To the extent that lower prices have been projected to boost consumption -- and therefore imports -- it has been argued that the SPR will need to be larger to afford the same measure of security against a disruption. During summer 1986, Secretary of Energy Herrington urged the Office of Management and Budget to reconsider its opposition to further development and fill of the Reserve, and in mid-August, President Reagan ordered that purchases continue beyond 503 million barrels.

Virtually all recent purchases for the Reserve have come from Mexico, and some are urging that purchases from Mexico continue, or be increased, as a means of providing assistance to that nation's troubled economy. Others have suggested that purchases for the SPR be made from domestic producers whose wells might otherwise be shut-in at current prices. In the near future, the fill rate is likely to be tied to prevailing prices for crude; the lower the price, the higher the fill rate. The House has budgeted a fill rate of 75,000 b/d during FY87.

NATURAL GAS

Not long after decontrolling petroleum in January 1981, the Reagan Administration strongly indicated its intention to seek early decontrol of natural gas. In the early spring of 1982, the Administration indicated it would not seek decontrol during the 97th Congress, a decision probably motivated by awareness of the political opposition to decontrol in a sluggish economy. Rising gas prices in the fall of 1982 spurred a flurry of bills before the 97th Congress adjourned, but nothing was decided in the expectation that there would be a thorough and complete revision of the Natural Gas Policy Act (enacted in 1978) in the 98th Congress. The NGPA essentially created two categories of natural gas -- one regulated for the life of the resource, and the other to be deregulated on Jan.1, 1985. The NGPA also brought intrastate gas under regulation for the first time.

President Reagan transmitted decontrol legislation in early 1983. The legislation was intended in part to address price increases which were attributed to "take or pay" provisions to which pipelines had committed themselves during periods of insecure supply. Take or pay required the pipelines to accept or pay for contracted volumes even if they could not be marketed feasibly at the contract price. The Administration and Congress wrestled with a number of possible fixes to this and other problems, but there was division within Congress and the industry. Legislation reported from committee in the House never went to the floor, and attempts to fashion compromise legislation in the Senate were also unsuccessful.

Legislative activity languished despite the introduction of a number of bills and indications from the Administration that it would support a bill that would deregulate old gas and address some of the problems in the natural gas market. Much of this interest was held in abeyance as FERC considered the matter of transportation. In late 1985, Order 436 was issued. This addressed transport specifically, and the remaining gas issues remained on the table. It was expected that the order would address several regulatory issues lingering from past decontrol legislation and from additional problems that emerged in the depressed market for gas.

Order 436 establishes conditions under which pipelines can serve new markets and establishes conditions under which interstate pipelines can broaden their service into new markets. The order did not address other pending issues such as renegotiation or cancellation of take-or-pay contracts, nor did it address how costs for gas are allocated in the rates charged to different classes of consumers. In part, then, the FERC Order was a regulatory and administrative substitute for legislation. Open access transport was not heartily embraced by the pipeline industry, and many producers and consumers who would like to move forward on transport-based deals are bringing pressure to bear for a legislative remedy in the form of mandatory carriage. This is so controversial that legislation seems unlikely at this time.

In early April 1986, the Administration proposed new natural gas legislation. The bill (S. 2285), introduced by request by Senator McClure, would essentially codify the spirit of Order 436, requiring that natural gas pipelines serve as common carriers through contract carriage provisions. Gas subject to new or renegotiated contracts would be decontrolled; all gas would be decontrolled by Apr. 1, 1987. The bill also includes provision to repeal the Powerplant and Industrial Fuel Use Act, which prohibits the use of gas or oil as a primary energy source in new powerplants.

Subsequently, FERC issued a rule (Order 451) on old gas pricing, establishing a ceiling on all old gas of about $2.60/mcf. Order 451 also provided for renegotiation of contracts containing old gas, with either party having the option of walking away from the contract. Should this happen, the pipeline would have to transport that gas for the producer. How this will play out in a marketplace where $2.60 is above the current clearing price is unclear. It may provide pipelines with an out for some gas over-commitments, or it could aggravate problems with high-priced gas. Moreover, Order 451 must withstand a court challenge regarding the authority of FERC to raise prices in this way.

With transport and old gas addressed by FERC in an effectively conclusive way, legislative interest is focused now on possible repeal of the Fuel Use Act and incremental pricing. These issues are addressed in H.R. 4669, which at the August break was in mark-up before the full House Energy and Commerce Committee.

CONSERVATION

Conservation was a "cornerstone" of the Carter Administration's energy program, largely due to a perception in many parts of the world which anticipated that world demand for petroleum would outstrip supply as early as 1985. This has proven to be far from the case. The urgency vanished. This change in outlook has been reflected in the Reagan Administration's posture towards conservation.

The Reagan Administration expressed support for the principle of conservation, but has opposed Federal subsidization of conservation policies when the cost of conserving would exceed the cost of using conventional fuels. Instead, the Administration defined conservation in 1981 as "the economically efficient use of resources," which was "best accomplished through well-informed market decisions" made by individuals acting in their own self-interest. It made little sense to the Reagan Adminstration to regulate prices below market level on the grounds this not only would discourage private sector investment, but in turn would compel the Federal sector to step into support research, development, and commercialization of conservation technology. Accordingly, oil and gas decontrol, and unregulated markets would enable individuals and industry to make the most sensible decisions about energy mix and conservation investment decisions. The only appropriate active role for the Federal Government in conservation, was "to conduct basic research in fields of scientific inquiry where new knowledge can expand the generic technology base underlying ... conservation."

The Administration's philosophy was reflected in its budget proposals for conservation. Projected reductions in the conservation budget were to total $2.4 billion by the end of FY86, representing reductions in program outlays of 30% in FY81, 80% in FY82, and over 90% in FY83. Congress restored most of the proposed cuts over this period, arguing that maintaining conservation programs, in conjunction with a more supply-oriented energy policy, was the best assurance of reducing short-term dependence on imported oil while in the long-term reducing the rate of depletion of domestic resources. For FY84 the Administration requested $74 million; Congress appropriated $430.5 million.

In 1983, the Administration retreated from the resolute tone of its earlier position, describing conservation as "a significantly important energy resource" and "an important component of the available energy resource mix." The Administration requested $370.7 million for conservation for FY86, an amount roughly 20% less than previously authorized.

Not surprisingly, however, conservation was anticipated to be an early target for reductions under the stringencies of Gramm-Rudman-Hollings. In the Administration's FY87 budget request, spending for conservation is reduced from more than $400 million to only $39 million. The House Appropriations Committee bill increased the conservation budget to $232 million.

COAL

The Administration and industry outlook for coal production and consumption could best be described as guarded optimism. Revised production estimates for 1986 are about 894 million tons, a slight increase over the 886 million tons produced in 1985. The National Coal Association predicts that consumption during 1986 will decrease slightly to 898 million tons from 911 million tons the previous year -- probably as utilities continue to burn their stockpile buildup of 1984. The buildup in stocks resulted from the anticipation of a United Mine Workers strike that never materialized.

At the same time, coal's share of the total energy mix is increasing at rates significantly less than had been projected just a few years ago. Much of the downward adjustment in demand is attibutable to declining oil prices and reductions in expected demand for electricity in domestic markets. As for the export market, U.S. producers are finding it increasingly difficult to compete with other exporters who can deliver coal at lower prices. These developments leave Congress and the Administration with the perplexing task of examining the components of the delivered cost of coal to assess whether U.S. coal can be made more competitive.

Several other issues remain as unfinished business from previous Congresses, notably coal leasing. The 98th Congress was preoccupied with assuring the Government a fair return from its coal leasing program. At issue now is Section 3 of the Coal Leasing Amendments Act of 1976, which stipulates that holders of non-producing lease tracts, held for longer than 10 years, cannot bid for any other Federal leases. This prohibition does not distinguish between coal, oil, gas, potash, sulfur or any other leaseable minerals specified. Thus, those holding non-producing coal leases with interest, for example, in oil and gas leases, may be compelled to relinquish the non-producing lease, or produce from it in the absence of an assured market for the production. The deadline for complying with Section 3 requirements is Dec. 31, 1986. The Senate Energy Committee in July reported out S. 2427, which would relax the Section 3 requirements. Although the coal and affiliated oil industries want Congress to repeal Section 3 altogether, some within the industry are concerned that Section 3 repeal may be tied to repeal of Section 2-C of the Mineral Leasing Law. The repeal of Section 2-C, long opposed by independent coal producers, would permit the leasing of Federal coal to railroads and would place them in direct competition with other coal companies.

Congress also has under study the Office of Surface Mining (OSM), established by the 1977 Act. OSM has been criticized for its oversight of surface mine regulation and its allocation of funds for the restoration of abandoned mine lands (see CRS report 86-730ENR, The Abandoned Mine Land Reclamation Program: Too Little, Too Late, To Complete). Significant penalties and fines have been assessed against mine operators by OSM, but have not been collected. Several States have also criticized the OSM for not turning over to the State monies collected for abandoned mine reclamation. Some have charged that the Administration has little intention of making these funds available to the States, preferring instead to use them as a source of general revenues to reduce the budget deficit.

The Department may become more inclined to withhold AML funds as the Administration begins applying the provisions of P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985. Since the AML fund is considered a trust fund for bookkeeping purposes only, the Department may be permitted to apply the proceeds of the reclamation tax levied on the mining industry to other Interior initiatives as it tries to achieve its budget cutting goals.

Another issue receiving attention once again during the 99th Congress is an Interstate Commerce Commission policy that has been effected pursuant to the deregulation of railroad coal transportation rates. The coal industry continues to maintain that it is frequently captive to the rails, and that high coal transportation costs are a major factor contributing to the diminishing share of U.S. coal in world markets. The coal industry has argued that the regulation issued by the ICC governing the definition of "captive shippers" has made what is captive unreasonably difficult to prove. The industry has been urging for congressional intervention to clarify the congressional intent of the Staggers Rail Act of 1980.

Finally, Congress has recently begun expressing its interest in another issue: the level of coal imports to U.S. electric utilities. On Apr. 15, 1986, the Subcommittee on Mines and Mining of the House Interior Committee held hearings on imports. Although these imports now constitute less than 1% of total U.S. coal consumption, they have been forecast by the Department of Energy to reach almost five million tons by 1995, a projected 3%. This penetration of foreign coal into domestic markets will very likely be limited to coastal power stations or locations along navigable waterways.

NUCLEAR

The Reagan Administration's position on nuclear power was defined in a statement by the President on Oct. 8, 1981. He termed it "one of the best potential sources of new electrical energy supplies in the coming decades," but said that its potential was not being realized because it had become "entangled in a morass of regulations" and because the Government had not developed an "acceptable system for commercial waste disposal." He also noted that efforts directed narrowly at helping nuclear power, such as regulatory reform, "will be of little use if the utility sector cannot raise the capital necessary to fund construction of new generating facilities."

The issues identified in the Reagan statement remain of active interest to Congress. Licensing legislation was proposed by the Department of Energy and by the Nuclear Regulatory Commission during the 98th Congress, but did not get beyond the hearing stage. A modified version of the legislation has been introduced in the 99th Congress (see also IB80081 -- Nuclear Power Plant Safety and Licensing). Another licensing issue has been the role of State and local governments in emergency planning around nuclear powerplants.

Also before the Congress is the Price-Anderson nuclear indemnification and liability act, which is due to expire in 1987. The Price-Anderson Act sets a limit on public liability for a nuclear accident and provides for funding to pay damages for an accident up to that limit. Although nuclear plants already under construction or operating would continue to be covered by Price-Anderson if it expired, new plants ordered after expiration would not be covered (see IB85181 -- Nuclear Liability Legislation: Price-Anderson Act Renewal Issues). All these issues were sharply affected by the accident at the Chernobyl reactor in the Soviet Union in April 1986. (See IB86077 -- The Chernobyl Accident: Causes, Initial Effects, and Congressional Response.)

Another problem facing nuclear power remains the relatively slow growth in demand for electricity and the poor financial condition of some utilities engaged in nuclear construction projects. The Administration has been in no hurry to propose legislative remedies for these difficulties, and congressional initiatives in the area of the electric utility industry have been more concerned with protecting consumers from rate increases resulting from construction difficulties than with the health of the nuclear industry.

Nuclear waste management was the subject of major legislation in the 97th Congress. It culminated in passage of the Nuclear Waste Policy Act (P.L. 97-425), setting a schedule for development by DOE of waste repositories, formalizing the role of State and Indian authorities in siting of waste facilities, and setting up a system of user fees to pay for the waste management program. Despite enactment of legislation, however, the issue remains controversial, and congresssional oversight on DOE's implementation of the Act has been intense. In addition, difficulties with siting new disposal grounds for low-level radioactive waste led the 99th Congress to amend the Low-Level Radioactive Waste Policy Act of 1980 by setting a tight schedule for States to provide new disposal facilities. (See also IB86030 -- Nuclear Waste Management and IB85214 -- Low-Level Waste Disposal).

Since the cancellation of the Clinch River Breeder Reactor project in 1983, DOE has been reorienting its nuclear research and development budget, particularly its breeder reactor program. Also a budget issue is DOE's investment in uranium enrichment plants (see also archived IB85050 -- The Department of Energy's Fiscal 1986 Budget; and IB84008 -- Nuclear Energy: Uranium Enrichment).

LEGISLATION

INTRODUCTION

H.R. 4515 (Whitten)

Makes urgent supplemental appropriations for FY86. Among other provisions, measure would block deferrals of spending for the Strategic Petroleum Reserve, and for research in fossil fuels, conservation, and solar energy. Introduced Mar. 25, 1986. Reported to House from the Committee on Appropriations (H.Rept. 99-510).

H.R. 5162 (Bevill)

Makes appropriations for energy and water development for FY87. Introduced July 15, 1986; passed House July 23, 1986.

H.R. 5234 (Yates)

Makes appropriations for Department of Interior and related agencies for FY87. Introduced July 24, 1986; passed House July 31, 1986.

HYDROPOWER

H.R. 44 (Shelby)/S. 426 (Wallop)

Amends the Federal Power Act to revise requirements with respect to license renewal in cases where the United States does not exercise its right to take over and operate a hydroelectric project licensed under such Act upon the expiration of existing license for such project. Introduced Jan. 3, 1985; referred to Committee on Energy and Commerce. Reported with amendment Mar. 25, 1986 (H.Rept. 99-507). Passed House amended Apr. 21, 1986. Measure laid on table Apr. 21, 1986; S. 426 passed in lieu. Conference scheduled.

OIL

P.L. 99-64, S. 883

Amends the Export Administration Act of 1979 to set forth new provisions regarding national security export controls, short supply export controls, and export controls imposed for foreign policy reasons. Requires the Administration to study the consequences to economic and energy security of permitting various levels of North slope exports. Passed Senate Apr. 3, 1985. Passed House, amended, Apr. 16, 1985. Conference report filed in House June 25, 1985 (H.Rept. 99-180). Signed into law July 12, 1985.

EMERGENCY PREPAREDNESS

P.L. 99-58, H.R. 1699

Extends Titles I and II of the Energy Policy and Conservation Act. Requires a test drawdown and distribution of oil from the Strategic Petroleum Reserve. Introduced Mar. 25, 1985, and forwarded by Subcommittee on Fossil and Synthetic Fuels to Committee on Energy and Commerce, amended, Apr. 4, 1985. Passed House, amended, June 9, 1985. Passed Senate, amended, June 18, 1985. House agreed to Senate amendment June 27, 1985. Signed into law July 2, 1985.

P.L. 99-88, H.R. 2577

Supplemental Appropriations for FY85. Disapproves deferral of funds for SPR construction, and overturns $290 million of proposed deferral of oil-acquisition funds. Passed House, amended, June 12, 1985. Passed Senate, amended, June 20, 1985. Conference report filed in House (H.Rept. 99-236) July 29, 1985. House agreed to conference report July 31, 1985. Senate agreed to conference report Aug. 1, 1985. Signed into law Aug. 15, 1985.

S. 2427 (McClure)
Amends the Mineral Lands Leasing Act to modify the diligent development provisions of the Federal coal leasing program. Introduced May 18, 1986; referred to Committee on Energy and Natural Resources. Ordered reported with amendments favorably July 25, 1986.

NUCLEAR

P.L. 99-240, H.R. 1083
Amends the Low-Level Waste Policy Act to confer responsibility upon (1) each State for the disposal of low-level radioactive waste, generated within the State, either by itself or in cooperation with other States; and (2) the Federal Government for ensuring the safe disposal of federally generated high-level and low-level radioactive waste disposal facilities. Authorizes the States to enter into regional compacts to establish and operate regional low-level radioactive waste disposal facilities. Introduced Feb. 7, 1985; referred to more than one committee. Reported Oct. 22, 1985 from Committee on Interior and Insular Affairs with amendment (H.Rept. 99-314, Part I). Reported Dec. 4, 1985 from Committee on Energy and Commerce with amendment (H.Rept. 99-314, Part II). Passed House amended Dec. 9, 1985. Passed Senate amended Dec. 19, 1985. Signed into law Jan. 15, 1986.

H.R. 1147 (Udall)
Amends the Atomic Energy Act of 1954 to revise licensing procedures for production and utilization facilities for nuclear material. Introduced Mar. 6, 1985; referred to more than one committee.

H.R. 3653 (Udall)
Amends the Atomic Energy Act of 1954 to revise the indemnification guideline for public liability resulting from nuclear incidents. Introduced Nov. 30, 1985; referred to more than one committee. Reported from Committee on Interior and Insular Affairs (H.Rept. 99-363, Part 1). Reported from Committee on Science and Technology with amendment (H.Rept. 99-636, Part 11).

S. 836 (Simpson, by request)
Amends the Atomic Energy Act of 1954, as amended, to improve the nuclear power plant siting and licensing procedures, and for other purposes. Introduced Apr. 2, 1985; referred to Committee on Environment and Public Works.

S. 1225 (Simpson)
Amends the Atomic Energy Act of 1954 to establish an indemnification procedure for full compensation of the public in the event of extraordinary nuclear accidents which result from activities undertaken under contract with either the Department of Energy or the Nuclear Regulatory Commission. Introduced May 24, 1985; referred to more than one committee. Reported from Committee on Energy and Natural Resources with amendment (without written report) May 24, 1986. Report filed by Senate Committee on Energy and Natural Resources May 21, 1986 (S.Rept. 99-310). Reported from Committee on Environment and Public Works with amendment (without written report) Aug. 15, 1986.

NATURAL GAS

H.R. 4689 (Bryant)
Amends the Powerplant and Industrial Fuel Use Act of 1978 to repeal prohibitions against the use of natural gas or petroleum as a primary energy source in new and existing electric powerplants and major fuel-burning installations. Introduced Apr. 23, 1986; referred to Committee on Energy and Commerce. Subcommittee hearings held June 18, 1986. Ordered reported by voice vote Aug. 12, 1986.

S. 2285 (McClure)
Amends the Natural Gas Policy Act of 1978 to (1) open access to natural gas pipeline transportation on a non-discriminatory basis; (2) remove Federal Energy Regulatory Commission jurisdiction over first sales of natural gas; (3) repeal price controls placed upon natural gas at the wellhead; and (4) repeal incremental pricing requirements regarding natural gas.

CONSERVATION

S. 410 (Johnston)
Repeals provisions of the National Energy Conservation Policy Act which requires electric and gas utilities to offer comprehensive site-specific audit services to customers who are owners of multi-family dwellings and commercial buildings. Introduced Feb. 6, 1985; referred to Committee on Energy and Natural Resources. Reported to Senate from the Committee on Energy and Natural Resources with amendment (S.Rept. 99-94). Passed Senate, amended, July 29, 1985; referred to House Committee on Energy and Commerce July 31, 1985. Passed House, amended, Mar. 11, 1986. Conference scheduled.

Robert L. Bamberger, Carl E. Behrens, and Duane Thompson

MLC-021

RENEWABLE ENERGY RESOURCES AND ENERGY CONSERVATION

...substantial reductions in R&D budget levels...

The Reagan Administration's "free-market" approach to energy development has led to a shift in program emphasis away from near-term market development and into long-range basic research. Substantial reductions in renewable energy R&D budget levels have accompanied the shift, with the budget dropping from $746 million to $180 million between FY81 and FY86.

As the R&D budget dropped, and the program moved away from commercialization projects, Federal tax credits for renewable energy investments grew in importance to the industry. Recognizing the importance of the credits to the renewable energy industry, solar interests in Congress began efforts in 1982 to extend the credits beyond their scheduled expirations date of Dec. 31, 1985. When those efforts failed and the credits expired on schedule, attention shifted to the tax reform measure now working its way through the Congress as the best chance for reviving credits in some form. Under a conference agreement reached Aug. 16, 1986, business credits for renewable energy investments would be reinstated (although on a reduced declining schedule) while the residentail credits would not. Also in the conference agreement, the research and development credit, used by many solar firms to defray the cost of developing new technology, would be maintained another 3 years, with the rate cut from 25% to 20%.

SOLAR ENERGY

The DOE solar energy R&D program carries out basic and applied research and exploratory technology development in six subprograms covering solar buildings energy systems, photovoltaic energy systems, solar thermal energy systems, biofuels energy systems (includes alcohol fuels), wind energy systems, and ocean thermal energy systems.

For FY86, the House approved a budget of $147.032 million for solar energy R&D, while the Senate allowance was $161.732 million. The conference reached a level of $157.232 million, the amount subsequently provided in P.L. 99-141, the FY86 Energy and Water Development Appropriation bill. The Gramm-Rudman-Hollings Emergency Deficit Control Act of 1985 (P.L. 99-177) reduced the FY86 mark to $144.624 million.

In making its mark, the Senate Appropriations Committee said it considers it "essential that a viable solar and renewable energy research and development program be maintained in the Department of Energy and that the staff expertise be maintained to properly manage this type of effort. Continued basic research and development of solar and renewable energy is essential to maintain a balanced energy research program." [S.Rept. 99-110]

The Senate rejected the House bid to fund the Solar Energy and Energy Conservation Bank in FY86. The House proposed $15 million for the Bank but the Senate did not recommend any new funding. The Senate Appropriations Committee noted that the Bank has a large unutilized balance [about $35 million available in FY86]. It also noted that substantial additional resources are being provided for conservation improvements under other DOE and HUD programs.

For FY87, the House has approved a budget of $113.395 million for solar programs, a decline of 21.6% from the FY86 budget but well above the Administration's request of $72.292 million. Funding is provided for several hardware development programs the Administration wanted to terminate, including the Photovoltaics for Utility Scale Applications program and the Mod-5B multi-megawatt windmill in Hawaii. Approximately one-third of the House-approved amount will go to photovoltaic energy systems, including an additional $7.5 million for the utility scale applications project and $5 million for innovative projects.

ALCOHOL FUELS

The Reagan Administration, upon taking office, proposed virtual termination of the extensive alcohol fuels program enacted in 1980 as part of the Energy Security Act. Congress only partially accepted the proposed cutbacks, and the alcohol fuels program has therefore continued to exist, on a reduced level.

Despite the cutbacks in the Federal program, sales of alcohol for fuel purposes have risen sharply through 1985, aided by the 6 cents per gallon exemption from the Federal excise tax on gasoline and by similar exemptions from some State taxes, particularly in the Midwest. Most of such sales are of ethanol in a 10% blend with gasoline; this blend had been popularly known as "gasohol," but the use of this term has largely been dropped for marketing reasons. The sales of such blends climbed from 750 million gallons in 1981 to 2,300 million (2.3 billion) gallons in 1982, to 4,330 million (4.33 billion) gallons in 1983, to 5.7 billion gallons in 1984, and to an estimated 6.55 billion gallons in 1985. (The alcohol used to make up these amounts of fuel would be one-tenth of these totals, i.e., 655 million gallons in 1985, etc.) Leading States in ethanol fuel sales during 1985 were Illinois, Ohio, Indiana, Florida, and Kentucky, in that order. In terms of market share, the leading States were Iowa, Nebraska, Kentucky, Kansas, and Indiana, in that order.

During the 1980s, sales of methanol in blends with gasoline became significant for the first time, rising to over 200 million gallons per year. Methanol as an automotive fuel attracted congressional interest during the 98th Congress. Two bills were introduced to establish a national methanol policy (H.R. 4855, Sharp; H.R. 5075, Broyhill), and hearings were held by the House Energy and Commerce Committee. Bills promoting the use of methanol as an automotive fuel have also been introduced in the 99th Congress. (S. 1097, Danforth; H.R. 2955, Wise; H.R. 3355, Sharp and Broyhill).

Imports of alcohol for use as an automotive fuel became controversial during 1985. Brazil is the world leader in alcohol fuels development, and all of its automotive fleet now operates either on pure alcohol or on alcohol-gasoline blends. Imports of alcohol from Brazil for fuel use were estimated at over 100 million gallons in 1984 and 1985. During 1985, a group of U.S. ethanol producers filed charges claiming that Brazil was illegally dumping ethanol in the United States at unfairly low prices. Brazil denied these charges, which were considered by the International Trade Administration of the Department of Commerce and by the International Trade Commission (ITC). In March 1986, the ITC ruled that Brazilian ethanol did not materially injure the U.S. fuel ethanol industry.

Another controversy relating to ethanol imports involves the Caribbean Basin Initiative (CBI). Under the CBI legislation enacted in 1983, the small countries of Central America and the Caribbean are allowed duty-free access to the U.S. market for products produced or "substantially transformed" there. Some corporations have announced plans to build facilities in CBI nations which would "upgrade" Brazilian ethanol by decreasing its water content, i.e., drying it. The Customs Service has ruled that this is a "substantial transformation", and that this ethanol therefore has duty-free status. This ruling has been challenged by U.S. producers, and legislation has been introduced to to modify or reverse the Customs ruling (S. 576, Dole; H.R. 1567, Leach; H.R. 1720, Durbin).

The future of the excise tax exemption was considered as part of the tax reform legislation considered by the 98th Congress (H.R. 3838). The Administration's proposal would have eliminated the tax exemption; however, the bill as passed by both the House and the Senate retains the exemption. The legislation regarding imports under the CBI was added as an amendment to the tax bill; it disallows CBI status for drying facilities, but "grandfathers" certain plants where sizable investments had already been made.

The alcohol fuels industry is looking to the phasedown of lead in gasoline as having the potential for a vast increase in the market for alcohol fuels, which could substitute for lead as an "octane booster." However, the collapse of oil prices during early 1986 has caused serious problems for the alcohol fuels, since alcohol is less able to compete with gasoline at the lower price.

GEOTHERMAL ENERGY

Broadly defined, geothermal energy is the heat of the earth, but for practical purposes it is only anomalously high thermal areas in the upper crust that geologists consider geothermal resources. The primary use of geothermal energy is to generate electricity. For this purpose, the United States currently leads the world with an installed geothermal electrical generating capacity of 2,022 Mw from 56 power units located in five States. Most of the potentially attractive geothermal sites are on Federal lands and are available for geothermal prospecting and development under the Geothermal Steam Act of 1970 (P.L. 91-581). To further development of geothermal energy, Congress passed the Geothermal Research, Development, and Demonstration Act of 1974 (P.L. 93-410) which was subsequently amended (P.L. 96-294) in an attempt to accelerate the development and commercialization of geothermal energy. These measures provided for geothermal energy research and financial incentives for geothermal development and demonstration through loan and loan guarantee programs.

Another approach to further business and residential development of geothermal and other alternative energy technologies is through tax credits provided by the Energy Tax Act of 1978 (P.L. 95-618), and subsequently expanded by the Windfall Profits Tax Act (P.L. 96-223). Although there was considerable debate to extend the tax credits, and the House passed a partial extension in the Tax Reform Act (H.R. 3838), the credits expired on Dec. 31, 1985. Any extension would now have to be considered in the context of the Tax Reform debate, a difficult forum for tax credits.

Unless the tax credits are reinstated, this would also render moot legislation concerning groundwater heat pumps. At issue is whether groundwater heat pumps should qualify for residential energy tax credits. The question arises because of the ruling by the Internal Revenue Service under the Energy Tax Act, that for the purpose of residential tax credits, geothermal deposits are defined as having a temperature of 50 degrees C (122 degrees F) or hotter. This makes systems which use lower temperature groundwater (such as groundwater heat pumps) ineligible for the 40% residential energy tax credit. Several people installed such systems prior to the IRS ruling of August 1980 (two years after passage of the Energy Tax Act) and some were even advised by the IRS that these systems would qualify for the tax credit. Legislation to amend the Internal Revenue Code of 1954 to broaden the definition of geothermal energy for tax credit purposes includes H.R. 843 (Seiberling) and H.R. 1315 (Latta). In addition, among its other provisions, H.R. 2001 also redefines a geothermal deposit as the heat of the earth at any temperature.

Funding for the Department of Energy's Geothermal Program has steadily decreased from its peak level in 1979. Program goals continue to include the solution of immediate technical problems that directly assist industry, and support for longer term research and development that private industry is unlikely to perform.

CONSERVATION RESEARCH AND INNOVATION

FY87 Conservation Budget

Concern about the mounting Federal deficit has spurred efforts to reduce conservation and other types of energy spending for FY87. Two other more specific pressures to reduce conservation spending emerged during FY86. One is the large drop in oil prices that occurred during February 1986. Also, the release of the $2.1 billion in Exxon oil overcharge restitution funds to the States has exerted pressure to reduce direct Federal appropriations for State and local energy conservation programs. Consequently, for FY87, the Administration requested $54.6 million for energy conservation programs, which represents an 87% decrease -- $372.9 million reduction below the $427.5 million FY86 appropriation. However, it appears that the Congress will once again appropriate a significantly higher level than the Administration's request. The House has approved (H.R. 5234, H.Rept. 99-714) a budget of $251.5 million for conservation, while the Senate Appropriations Committee has approved the somewhat lower figure of $225.2 million. This still represents about a 41% to 47% reduction from the FY86 appropriation.

Appliance Efficiency

Perhaps the most prominent debate over conservation regulatory programs involves the Department of Energy's (DOE) issuance of a "No Standards" rule for appliance efficiencies. A challenge to DOE's methodology underpinning the rule was argued before a Federal appellate court in January 1985. The D.C. Court of Appeals overturned DOE's No Standards rule on July 16, 1985 (No. 83-1195). DOE decided not to appeal to the Supreme Court for a review of the lower court's decision. However, DOE does not expect to formulate a new proposed rule until 1988. Meanwhile, about 26 states have set standards which are now in effect.

Appliance manufacturers have found that the emerging system of State regulations complicates the industry's marketing and distribution efforts. Consequently, it is seeking Federal standards as a preferable alternative to the uncertainties cause by the variety of State regulations. On Aug. 15, 1986, identical bills were introduced in the House (H.R. 5465) and the Senate (S. 2718) to establish Federal energy efficiency standards for 11 large appliances. The bill attempts to compromise between manufacturers and environmental groups, and its provisions would be phased in over a 5-year period. A hearing and markup on the House bill was held by the House Subcommittee on Energy Conservation and Power on Sept. 10, 1986. A hearing on the Senate bill was held on Sept. 16, 1986. Supporters of the legislation expect that it has a fair chance of passing Congress during this session, despite the short time remaining.

Commercial and Apartment Conservation Services

Another debate has erupted over DOE's February 1985 announcement that the Nation's utilities could terminate the Residential Conservation Service (RCS) program services. This move is opposed by Chairman John Dingell of the House Energy and Commerce Committee and Chairman Edward Markey of the Committee's Subcommittee on Energy Conservation and Power, who argue on the basis of a June 3, 1985, General Accounting Office legal analysis (B-205365) that services are statutorily mandated to continue indefinitely.

Since February 1985, two bills (H.R. 929, H.R. 969) have been introduced to repeal both RCS and the Commercial and Apartment Conservation Service (CACS) programs; one bill (S. 410) would repeal CACS only. On July 29, 1985, S. 410 passed the Senate. As amended by the Senate, S. 410 extends the RCS program though 1988 and directs GAO to perform an evaluation of RCS impacts. S. 410 passed the House on Mar. 11, 1986. The bill was amended to terminate the CACS program while expanding the RCS program to include audits of multi-family housing and allowing States to formulate alternative plans for implementing residential conservation services. A conference was held on the bill, and a report (H.Rept. 99-787) was issued on Aug. 12, 1986. House and Senate conferees agreed to the report on Aug. 15. The bill became public law (P.L. 99-412) on Aug. 28, 1986.

The 99th Congress has acted on conservation legislation in several other areas. One bill, S. 727, became public law (P.L. 99-186) on Dec. 18, 1985. It allows gas utility holding companies to become part-owners of cogeneration facilities. Another bill, H.R. 2095, would extend daylight savings time. The House passed this bill, and the Senate Commerce Committee's Subcommittee on Science held a hearing on Oct. 31, 1985. Other conservation related legislation is focused on: fuel cells, district heating, conservation tax credits, auto fuel efficiency standards, indoor air pollution, and regional power planning.

[See also CRS IB85130, Energy Conservation: An Overview of Policy Issues and Options; and CRS Report 85-109SPR, Energy Conservation Policy: A Review of Recent Developments and Some Options for Program Impact Research.]

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ENVIRONMENTAL PROTECTION

MLC-022

ENVIRONMENTAL PROTECTION AGENCY PROGRAMS: CONGRESSIONAL ACTIVITIES

...water and hazardous waste high on agenda...

The environmental protection activities of the 99th Congress concern legislation to reauthorize and amend existing statutes, plus proposals to fill perceived gaps in existing laws and oversight. High on the list of environmental issues is reauthorization of Superfund, which provides for cleanup of spills of hazardous substances and leaking hazardous waste dumps, and the Clean Water Act municipal wastewater treatment grant program. Key authorizations in both of these areas expired at the end of FY85. Congress' agenda also includes bills to reauthorize and amend the Toxic Substances Control Act, the Clean Air Act, the Ocean Dumping Act, and the Federal Insecticide, Fungicide, and Rodenticide Act. The first environmental law to be approved by the 99th Congress is the Safe Drinking Water Act Amendments (P.L. 99-339).

Two issues Congress is concerned about as possible "gaps" in existing Federal environmental protection statutes are groundwater contamination and compensation of pollution victims. Another high priority concerns the adequacy of Federal laws to deal with hazardous and toxic wastes in the environment -- an issue complex that incorporates consideration of compensation and groundwater protection, plus programs under the various pollution control statutes. At the same time, Congress is reviewing existing statutes for their adequacy and efficiency in providing a healthful environment and their implications for other national problems, such as energy development and economic growth.

The authorities and responsibilities of the Environmental Protection Agency (EPA) derive primarily from nine major statutes together with provisions from several other statutes. These statutory authorities, enacted and amended over the past 15 years, encompass programs and measures to protect and enhance the Nation's air, water, and land environment. Congress has regularly reviewed these programs and their implementation by EPA.

The public continues to support environmental protection measures. Yet policy deliberations on how to try to strike an appropriate balance between environmental and economic concerns have in part led to recent stalemate and inaction on several proposals to fine-tune existing laws.

By the end of the 98th Congress, authorization of appropriations for seven of the nine major laws administered by EPA had expired. Congress reviewed many of the existing laws, committees reported a number of bills, and several were passed by either the House or Senate. Yet, final legislative action has occurred in only a few areas: a 4-year extension and revision of the Resource Conservation and Recovery Act (P.L. 98-616), reauthorization of the Safe Drinking Water Act (P.L. 99-339), and appropriation of funds to EPA to administer current laws. (Although authorizations for other laws have expired, programs within these statutes have continued and have been funded by Congress.)

The following text breaks down the environmental protection issues into 10 areas, which are briefly defined to put legislative proposals in context. The issues are treated in the following order:

1. Superfund
2. water quality
3. toxic substances in the environment
4. air quality
5. drinking water
6. groundwater quality
7. pesticides
8. ocean dumping
9. environmental research and development
10. EPA budget

(NOTE: A review of environmental protection activities of the 98th Congress, similarly broken down by issue, is available as IB83018.)

SUPERFUND

The Superfund program for cleaning up spills of hazardous substances and leaking hazardous waste dumps was created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The taxing authority that provides seven-eighths of the $1.6 billion fund expired Sept. 30, 1985; the other one-eighth comes from appropriations. There is general agreement that the program should be extended. Key questions are how large the fund should be for the next 5 years and how the revenues should be raised.

It is not really known how many sites need attention, nor how much cleanup will cost. A series of reports issued by EPA in December 1984 (the "Section 301(a) studies") concluded that a baseline of 1,800 sites would cost about $11.7 billion to clean up. Other estimates run as high as $100 billion. Given this uncertainty, much of the recent debate has focused on how fast EPA can efficiently spend the money. The agency claims that $1 billion per year is about the maximum, while others state that twice that amount could be spent effectively. For FY86, EPA requested and had approved an appropriation of $900 million for Superfund, although the money is not to be made available until CERCLA is reauthorized. (For further information, see archived IB85034--Superfund: How Many Sites? How Much Money?)

On Mar. 20, 1986, the House approved a $150 million stopgap measure (H.J.Res. 573) to keep the program running through May 31, 1986. The Senate passed the bill the next day. EPA Administrator Lee Thomas had previously said that if funding were not made available by April 1 he would have to begin shutting down the program and cancelling contracts. A second stopgap measure, providing $48 million for 30 days, was approved in August 1986, when Superfund funding issues still remained unresolved by congressional conferees (H.J.Res. 713).

Meanwhile, Congress continued working on a 5-year reauthorization. The Senate passed H.R. 2005 (previously S. 51; S.Repts. 99-11 and 99-73) on Sept. 24, 1985. The House passed the bill (previously H.R. 2817; H.Repts. 99-253, Parts 1-5) on December 10. Conferees agreed to a 5-year $8.5 billion reauthorization on July 31, 1986, plus $500 million for a leaking underground petroleum tank cleanup fund. Still to be resolved is the means of raising the money. The tax conferees are reportedly close to agreement on incorporating some kind of broad-based tax on corporate earnings (as in the Senate bill), and also substantially increasing the existing taxes on the petrochemical industry (as in the House bill). There are also reports that the Superfund tax might be included in the tax reform legislation. On July 30 Treasury Secretary James Baker reiterated previous threats to veto the legislation if it exceeded the $5.3 billion Administraton request.

The bill agreed to in conference would, among other things, establish cleanup standards at Superfund sites, would require that EPA begin 375 additional cleanups in the next 5 years, would extend the statute of limitations for victims of exposure to toxic substances to file suit in those States where victims' rights are limited, would allow EPA to release from further liability companies that have cleaned up hazardous sites, and would require companies to notify local authorities of their stocks of hazardous chemicals and to immediately report accidental releases. (For further information, see IB85132 -- Superfund Reauthorization: Issues for the 99th Congress.)

WATER QUALITY

The principal law governing pollution in the Nation's waterways is the Clean Water Act, which has the objective of restoring and maintaining the "chemical, physical, and biological integrity of the Nation's waters." Originally enacted in 1948, amendments in 1972 totally revised the Act (P.L. 92-500), providing its current shape and spelling out ambitious programs for water quality improvement now being put in place by industry and municipalities. Congress made certain fine-tuning amendments in 1977 (P.L. 95-217) and again reauthorized and revised portions of the law in 1981 (P.L. 97-117). Authorizations for other provisions expired in 1982, leading to renewed attention to clean water issues since then, but not yet resulting in enactment of amendments.

The Act could be said to consist of two major parts, one being the Title II provisions which authorize a Federal grant program to assist cities in constructing sewage treatment plants. The other major part is regulatory requirements, found throughout the Act, that apply to industrial and municipal dischargers, which place rigorous demands on those who are regulated to achieve higher and higher levels of pollution abatement under prescribed deadlines.

The initial years of the Act's implementation emphasized control of discharges of conventional pollutants (such as oxygen-demanding material and suspended solids) from discrete and identifiable industrial and municipal sources of pollution, most of which now are in compliance with the Act or on schedule to become so. Emphasis since 1977 has shifted to more difficult control of nonpoint sources (diffuse sources, from which pollutants run off the land, such as agriculture and forestry sites), and, especially, control of toxic substances from point and nonpoint sources -- heavy metals, pesticides, and other organic compounds.

Congressional efforts to reauthorize expired provisions of the Clean Water Act were unsuccessful in the 98th Congress, as were similar efforts in the 97th Congress. Although the House passed legislation in June 1984 (H.R. 3282), the Senate did not debate committee-reported bills (S. 431 and S. 2006) before adjourning in October 1984. The 99th Congress is considering many of the same areas of inquiry which were the focus of clean water review in 1983 and 1984, particularly implementation of the Act's toxic pollution control provisions and establishment of programs to control nonpoint source pollution. (For further information, see IB83030--Water Quality: Implementing the Clean Water Act.)

An additional issue of interest is the Act's program of aid to construct municipal sewage treatment plants, for which authorizations expired at the end of FY85. Whether this program should continue, be phased out, or be revised (possibly as loans, rather than grants) is being debated. An EPA Task Force issued a report early in 1985 that suggested continuing the program at the current $2.4 billion per year funding level through FY91 and phasing the program out by the end of FY94. However, the President's FY86 budget proposal sought to phase the program out more quickly -- by 1990. (For further information, see IB86018 -- Wastewater Treatment Programs: Impact of Gramm-Rudman-Hollings Act and Prospects for Federal Funding.)

The Senate and House passed bills in mid-1985 to reauthorize the Act (S. 1128 and H.R. 8, respectively). However, because of delays resulting from other congressional priorities, final action on a reauthorization bill is not likely before September 1986. These bills include a number of similar provisions (such as establishment of nonpoint source pollution management programs, requirements for additional control of toxic waste discharges, and extension of industrial compliance deadlines). Both bills also would establish Water Pollution Control Revolving Funds to replace the Act's current sewage treatment grant program at the end of this decade. Under the proposed new program, States would receive capitalization grants from the Federal Government to establish loan funds for construction of sewage treatment facilities. Both bills would provide higher funding levels and more extended Federal aid for such projects than the Administration seeks. S. 1128 authorizes $18 billion in assistance through FY94 and H.R. 8 authorizes $21 billion through FY94; the Administration requested $6 billion through FY89, at which time the Federal program would cease. A key difference between the House and Senate bills is allotment of sewage treatment grant funds: H.R. 8 retains the State-by-State distribution formula in current law, while S. 1128 revises the formula to the benefit of a number of Western and Southern States. The Administration opposes key features of the bills, including provisions on sewage treatment aid and nonpoint pollution control.

TOXIC SUBSTANCES IN THE ENVIRONMENT

The Toxic Substances Control Act (TSCA) was enacted in 1976 to comprehensively address the risks presented by hazardous chemicals. Some, however, have been disappointed with TSCA's implementation, arguing that EPA has been too conservative in its interpretation of the statute and too slow to address the risks of existing and newly developed chemicals. The chemical industry generally supports TSCA's implementation to date, although there are some fears that new chemical innovation is being hindered by the Act's requirements. Major issues of debate include the perceived need for minimum data requirements for registering new chemicals, ways to encourage more testing of existing chemicals, and public access to information submitted to EPA under TSCA.

TSCA was designed to provide EPA with broad authority to 1) encourage or require testing of existing chemicals, those currently in widespread commercial production or use; 2) prevent future chemical risks through premarket screening and regulatory tracking of new chemical products; 3) control unreasonable risks of chemicals already known or as they are discovered; and 4) gather and disseminate information about chemical production, use, and possible adverse effects to human health and the environment.

During the 98th Congress, the committees of jurisdiction in both Houses held oversight hearings at which possible amendments were discussed, but no legislation was enacted.

In June 1984, the General Accounting Office (GAO) released two reports about EPA's implementation of TSCA: "Assessment of New Chemical Regulation Under the Toxic Substances Control Act" and "EPA's Efforts to Identify and Control Harmful Chemicals in Use." These reports were highly critical of EPA in a number of areas and made a variety of specific legislative and programmatic suggestions to improve Agency performance.

In December 1984, an accident at a pesticide plant in Bhopal, India, killed and injured thousands of nearby residents. Various congressional committees have investigated the implications of this accident for both domestic and foreign policies regarding the manufacture, use, transport, and trade of hazardous chemicals. (For more information, see archived IB85022 -- The Accident in Bhopal, India: Implications for U.S. Hazardous Chemical Policies; and IB86069 -- Hazardous Chemical Facilities and Community Right-to-Know: Current Issues.) Since TSCA is the primary statute which regulates the chemical industry in the United States, debate about these issues has included discussion of TSCA's applicability for preventing or responding to such an accident in the United States. For example, H.R. 965, introduced in February 1985, would add provisions to TSCA regarding community rights to know about hazardous chemicals produced or stored in their jurisdiction, emergency response plans to chemical accidents, and liability for damages caused by accidental chemical releases. However, community right-to-know and emergency planning requirements are included as part of the Superfund reauthorization as reported by the House and Senate conference committee.

AIR QUALITY

The authorizations for appropriations for the Clean Air Act (CAA) expired at the end of FY81. Though the Senate Committee on Environment and Public Works reported out comprehensive reauthorization bills in the 97th and 98th Congresses, no bill received Senate floor action. House action in both Congresses broke off in committee.

Acid precipitation control has been the most actively debated air quality issue. Points of contention include the nature and urgency of the problem and who should pay the costs of emission reductions. The Administration has supported an accelerated research program, maintaining that imposing costly control actions is premature. Congressional proposals include bills that mirror the Administration's position of accelerated and expanded research into the causes and effects of acid precipitation as well as bills that impose reductions on emissions of sulfur dioxide and nitrogen oxides, the precursors of acid precipitation. H.R. 4567 was approved by the House Energy and Commerce Subcommittee on Health and Environment on May 19, 1986. This bill would require all States to meet Statewide average limits in order to reduce emissions of sulfur dioxide and nitrogen oxides. (See IB85008 -- Acid Rain: Issues in the 99th Congress.)

A second major issue has been implementation of Section 112 of the CAA, control of hazardous air pollutants. The slowness with which EPA has carried out the requirements of this Section has been the subject of congressional oversight. A number of States and municipalities have been developing their own regulatory programs for toxic substances.

Proposals to increase the effectiveness of Section 112 to better protect public health fall into two categories: one approach would give EPA more flexibility, permitting consideration of risk, costs, and other societal impacts, and removing deadlines; the second approach would direct EPA to make decisions on specific chemicals, with automatic listing and regulation of substances identified as hazardous if EPA fails to act within specific deadlines. The first approach is generally supported by EPA and industry; the second approach is generally supported by environmental groups.

H.R. 2576, the Toxic Release Control Act, introduced May 22, 1985, addresses both the problem of more or less regular emissions of toxic air pollutants, and the problem of accidental releases, a new concern stimulated by the Bhopal incident. This bill would repeal Section 112 of the Clean Air Act; require EPA to regulate 89 chemicals; set up a new program aimed at preventing chemical leaks into the air; and establish a Federal course of action for persons injured by hazardous air emissions. The House Subcommittee on Health and Environment held a hearing on June 11, 1985, to discuss details of this proposal. (For further information, see IB85185 -- Hazardous Air Pollutants.)

A third issue has been motor vehicle emission control. The continuing price differential between leaded gasoline (which is less expensive) and unleaded gasoline (which is more expensive) has resulted in increased misfueling and in tampering with the emission control equipment of cars that use unleaded fuel only. Aggravating the situation, in the opinion of critics of the Agency, have been EPA's repeated extensions of attainment deadlines to meet the prescribed 90% reduction of auto-related pollutants and the Agency's delays, until Mar. 15, 1987, of heavy-duty vehicle controls; only cars and light trucks are currently subject to increasingly stricter controls.

The new heavy-duty vehicle rules, moreover, retain permissible emissions at 1980 levels and propose a system of noncompliance penalties instead of meeting emission limitations if a manufacturer lacks the technological capability to meet such standards.

An issue of increasing attention is indoor air pollution, especially pollution by radon, the regulation of which is currently not covered by the outdoor air quality-oriented CAA requirements. S. 1198 and H.R. 2101 would establish in EPA a research program on indoor air quality. P.L. 99-160 (FY86 appropriations for EPA) includes $3.5 million for indoor air pollution R&D, with $1.5 million earmarked for radon pollution research.

(For further information, see IB86067 -- Clean Air Act: An Overview.)

DRINKING WATER

The 99th Congress enacted extensive amendments to the Safe Drinking Water Act in May 1986 (P.L. 99-339). This was the most significant revision of the law since its passage in 1974. The 1986 amendments

-- set 3-year deadlines for EPA to set drinking water standards for 83 specified contaminants;

-- require drinking water standards to be based on best available technology, taking costs into account. Granular activated carbon is designated as an effective method for removing synthetic organic chemicals;

-- require EPA to promulgate requirements for disinfection and filtration and to provide technical assistance to small systems on these practices;

-- require public water systems to monitor for chemical contaminants, including those not currently regulated by EPA;

-- ban the use of lead pipes or lead solder in new drinking water distribution systems;

-- require EPA to take enforcement actions in every case in which drinking water or underground injection control requirements are violated if the State does not act. The Agency also has the authority to issue administrative orders for violations and to take violators to court;

-- establish an elective wellhead protection program around public water supply wells. States may voluntarily develop such groundwater protection programs and obtain Federal grant to fund the effort;

-- establish an elective demonstration grant program for State and local authorities having designated sole source aquifers to develop groundwater protection programs; and

-- reauthorize the Safe Drinking Water Act for FY87-FY91 (reauthorization expired in 1982). The authorization levels are $170 million in FY87, $145 million in FY88, and $169 million annually in FY89, FY90, and FY91.

(For further information, see IB86080 -- Safe Drinking Water, and MB83238 -- Underground Injection of Wastes.)

GROUNDWATER QUALITY

Groundwater is a vitally important natural resource in the United States: over half of the populace relies on groundwater for its primary source of drinking water. More generally, groundwater supplies 23% of the fresh water used for all purposes in the United States, including 40% of all water used for irrigation. Actual and threatened pollution of the underground aquifers has only begun to be understood in the last decade.

EPA involvement in groundwater protection is restricted to the drinking water aspects of the resource; groundwater usage for irrigation comes under the administration of the Department of the Interior.

Although several environmental laws provide elements of groundwater protection, no single piece of legislation serves to protect this resource exclusively. Although EPA administers over a half dozen laws that address aspects of groundwater protection, critics have questioned whether these efforts have been adequately coordinated. In an effort to integrate administrative activities regarding groundwater protection, EPA instituted a groundwater protection strategy in August 1984.

Several groundwater-related proposals were introduced during the 98th Congress, and some of these were enacted into law with the passage of amendments to reauthorize and amend the Resource Conservation and Recovery Act (P.L. 98-616). These provisions included establishment of a National Groundwater Commission, regulation of underground storage tanks, and restrictions on undergound injection of wastes into and above aquifers.

The Safe Drinking Water Act Amendments of 1986 (P.L. 99-339) contain two groundwater protection provisions. The first establishes an elective wellhead protection program around public water supply wells. States may receive 50% Federal grants to develop such programs within 3 years. The amendments specify items to be included in the State's program, such as potential sources of man-made contaminants, control measures, education, or special projects to protect wellhead areas, and contingency plans in the event of contamination. The program is authorized at $145 million over FY87-FY91.

The second groundwater provision establishes an elective sole source aquifer demonstration grant program, which provides 50% Federal grants to States for the development and administration of groundwater protection programs for designated sole source aquifers. The program is authorized at $77.5 million over FY87-FY91.

The conferees agreeing to the programmatic aspects of Superfund have approved legislation in response to the growing concern about leaking petroleum underground storage tanks contaminating groundwater. The bill would make spills of petroleum products eligible for Superfund response, and it would amend the Solid Waste Disposal Act to give the EPA Administrator the authority to order owners of leaking petroleum tanks to take corrective action. If owners cannot be found or do not take responsibility, EPA would be given the authority to take corrective actions and then seek reimbursement. This program would be funded through $850 million over 5 years. H.R. 8, which amends the Clean Water Act, contains several groundwater-related provisions. It passed the House on July 23, 1985.

Three groundwater-specific protection bills were introduced in late 1985. S. 1836 and H.R. 3808 are identical bills that would protect groundwater through State standards, planning, and protection programs. The third bill, H.R. 3906, would provide for a U.S. Geological Survey assessment of the Nation's groundwater resources. (For further information, see IB86079 -- Groundwater Contamination and Protection.)

PESTICIDES

Pesticides are chemicals used to control many kinds of pests: insects that attack crops, destroy materials, and serve as disease vectors; fungi and other disease-causing organisms; nematodes; and weeds, among others. They have become major components of agricultural production and of health protection. Against their benefits, certain hazards must be weighed. Pesticides may be highly toxic, some are persistent in the environment, and many pose risks to nontarget organisms.

Congress completely rewrote the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 1972 (P.L. 92-516). The 1972 law updated the 1947

FIFRA; the 1972 amendments reflected concerns about the unintended health and environmental effects of pesticides which were discovered since the 1947 law was enacted. According to FIFRA, pesticide regulation has three basic components: 1) the Environmental Protection Agency (EPA) must grant a Federal approval of pesticide products before they can be used (this licensing is called a "registration" of the product); approval is to be based on voluminous health and safety data which is required to establish that the pesticide will not cause "significant adverse effects" to health or the environment; 2) pesticides registered before the newer requirements were in place must be reviewed to see if they meet current health and safety standards (this is called "reregistration"); and 3) EPA has authority to restrict or ban uses of pesticides which have adverse effects on health or the environment.

EPA's difficulties in carrying out the provisions of FIFRA and the controversies inherent in balancing benefits and risks of pesticide use have led Congress to limit authorizations for the Act to one or two years, thus assuring continued oversight and increased sensitivity of the Agency to congressional concerns. Underlying these controversies are conflicting views of how well EPA is implementing FIFRA -- some seeing EPA's regulations as too strict and adversely affecting agriculture and the economy, while others view them as too lenient and threatening to health and the environment. Regularly, key issues include the scientific adequacy of EPA's decisions, the speed with which EPA is registering or reregistering pesticides, and the proper balancing of costs, risks, and benefits.

These controversies have led to numerous proposals to amend FIFRA. The first proposals taken up in the 99th Congress were introduced on May 14, 1985, by Mr. Bedell (Chairman of the Department Operations, Research, and Foreign Agriculture -- DORFA -- Subcommittee) and Mr. Roberts (ranking minority Member). Introduced as H.R. 2482, it was considered a bill originally drafted by EPA but was not approved as the Administration position. Its sponsors introduced it as a starting point for the Subcommittee effort to amend FIFRA. On May 20 and 21, 1985, the Subcommittee held hearings on this and other bills.

On Sept. 11, 1985, the issue received a new impetus: representatives of 42 consumer and environmental groups and the major producer trade group, the National Agricultural Chemical Association (NACA), representing 100 pesticide companies announced agreement on a number of historically controversial FIFRA issues, including reregistration, conditional registration, invalid and fraudulent data, public access to submitted health studies, community right-to-know, pesticide exports, inert ingredients, and pesticide cancellation proceedings. Specific legislative language was drafted to reflect this agreement and introduced in March 1986 (H.R. 4364 -- Bedell and Roberts). Hearings on the bill were held on Mar. 19, 20. The DORFA Subcommittee reported the bill on May 14, 1986. The full Agriculture Committee began mark-up of the bill on June 5; the bill was reported to the House on June 18 (H.Rept. 99-965). In the Senate, H.R. 4364 was introduced as S. 2215. Hearings on the bill were held on April 22 and 30. After the House Agriculture Committee reported its bill, as H.R. 2482, the Senate Agriculture Committee used that bill as reported as the basis for its mark-up. S. 2215 was ordered reported to the Senate on Aug. 13, 1986. Floor action in both Houses is expected during September.

OCEAN DUMPING

Authorizing legislation covering the intentional disposal of waste materials into the marine environment expired in 1982. For the past 3 years there have been efforts in Congress to reauthorize the program. The House Committees on Merchant Marine and Fisheries, and Public Works and Transportation have reported legislation (H.R. 1957) to reauthorize the ocean dumping permit program. In addition, the legislation would terminate the ocean disposal of harmful sewage sludge disposal and establish a plan to restore the New York Bight.

Under the authorizing legislation, the 1972 Marine Protection Research and Sanctuaries Act (33 U.S. 1404-1444), EPA has authority to permit disposal of some substances, so long as they are not harmful to the marine environment or humans. Disposal of other substances is banned by the Act, including radiological, chemical and biological warfare agents, high level radioactive wastes, and known carcinogens.

In the years since the Act's passage, there have been mixed results. In some categories, like industrial waste disposal and solid waste disposal, there have been substantial reductions in the amounts disposed. But for sewage sludges and dredge spoils, there have been few successes. Although many municipalities ceased ocean disposal, a few in the New York/ New Jersey area continue the practice, with the result that the amount of ocean disposed sewage sludges continues to grow. On Apr. 2, 1985, EPA ordered New York City and some suburbs to discontinue using the traditional 12-mile New York Bight dumpsight and use the 106-mile dumpsite instead. For dredge spoils, which comprise over 90% of all ocean disposed substances, there has been little success in reducing the amount dumped due to difficulties in obtaining alternative sites. Land sites have grown increasingly more expensive and public opposition to such sites has become a major public policy consideration. There appears to be more pressure now to not only continue but also perhaps to expand many ocean dumping practices as land siting becomes more complex.

A related issue is the use of vessels to incinerate toxic chemical waste at sea. (For further information, see IB85131 -- Toxic Waste Incineration at Sea.) Regulations on incinerating at sea were proposed on Feb. 28, 1985, and regular commercial operations could begin in 1987. EPA has delayed scheduled research burns until data needs are met. Some opposed this operation, citing lack of sound data and possible threats to human health and the environment. Some also have proposed reviewing the disposal of low level radioactive wastes which are growing in number and present special difficulties for land disposal. For Congress, the issue seems to be a reassessment of the current ocean disposal policy which discourages the practice. Should the Nation pursue this policy or alter the standards by which substances and ocean sites are evaluated? Do policymakers have enough data at their disposal to adequately identify the impacts of ocean dumping activities? Are the oceans given special protective consideration and is the public now demanding the same consideration for land? These are some of the questions remaining in the debate over an appropriate ocean dumping policy.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT

Environmental R&D conducted by EPA is annually authorized separately from the Agency's other authorities. Authorization bills have been enacted only irregularly, although funds have been appropriated every year as part of EPA's regular budget appropriations bill. Two issues have always dominated environmental R&D: the appropriate level of funding, and the management of the program -- particularly with respect to planning and the adequacy of basic research. From time to time, these authorizations also specifically address related issues such as environmental monitoring.

In the first 2 years of the Reagan Administration, funding became the dominant issue, with EPA's R&D program bearing some of the Agency's biggest budget cuts. The Administration has sought to cut general long-term research and stressed specific short-term research related to regulation. Although Congress appropriated more funds than requested by the Administration, environmental R&D still shrank from $356 million in FY81 to $233.5 million in FY83. Energy R&D was particularly hard hit, being reduced by two-thirds during the period.

Many questioned the logic of these cuts and argued that if regulations were to be based on sound science, research deserved more support. The levels of funding rose to $250 million for FY84 and $305 million for FY85; in FY86 they decreased to $275 million. For FY87, the Administration sought $249 million for EPA's R&D activities, a $26 million decrease from FY86.

No legislation to authorize EPA's R&D was enacted in the 98th Congress.

Other R&D legislation in the 99th Congress is program specific, such as H.R. 1295 and S. 1039 (bills to require research on ocean incineration of toxic wastes); and S. 1198 and H.R. 2101, concerning indoor air quality research (the latter measure was incorporated in H.R. 2319 during consideration by the Science and Technology Committee).

EPA's BUDGET

On Nov. 25, 1985, the President signed the HUD-Independent Agencies Appropriations Bill for FY86 (P.L. 99-160, H.R. 3038), which includes EPA's FY86 funding. The $1.49 billion enacted for EPA's operating programs was $122 million more than requested by the President. Congress appropriated $900 million, 45% more than in FY85, for the Superfund program. However, no funds were appropriated for the sewage treatment construction grants program, pending reauthorization of the Clean Water Act.

In enacting the FY86 funds for the EPA, Congress earmarked funding in certain key areas. The largest increase earmarked was for the school asbestos program (+$46 million). For regulatory efforts for hazardous waste (+$6 million) and hazardous air pollutants (+$4.5 million) Congress increased funds. Congress decreased overall acid rain research funding by $9 million while increasing funding by $5 million for the limestone injection multistage burner (LIMB) project. Other research efforts which were the object of increases include indoor air pollution (+$3.5 million), hazardous waste/groundwater research (+$3 million) and EPA's research centers (+$4 million). In approving FY86 supplemental appropriations (P.L. 99-349), Congress released $1.2 billion for sewage treatment grants.

Under requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Dec. 12, 1985), the President ordered that 4.3% of EPA's budget be sequestered on Mar. 1, 1986. Congress later affirmed this in a separate action. This was applied evenly to almost 200 line items in the EPA budget.

The President proposed the FY87 funding for the EPA on Feb. 4, 1986. The proposal seeks $1.376 billion for EPA's operating programs. Specific requests for the Construction Grants program and the Superfund will be made later after the authorizing statutes for those programs are reauthorized. The proposal for FY87 represents a reduction of 3.5% under FY86 estimates, and marginal reductions for most EPA programs. The final FY87 appropriation for EPA could also be subject to sequestration, with the estimated percentage scenarios ranging from 2.5% to over 20%.

To date, the House Committee on Appropriations has recommended (H.Rept. 99-731) adding on $59 million to the President's $1.376 billion request for EPA's operating programs. The Committee also recommended $861.3 million for the Superfund and $2.4 billion for sewage treatment grants.

LEGISLATION

SUPERFUND

H.R. 2005 (Jones, J.)
Social Security Minor and Technical Changes Act of 1985. Introduced Apr. 4, 1985. Passed House May 14. Text of S. 51 inserted by Senate in lieu of Social Security language Sept. 24, 1985; text of H.R. 2817 inserted by House Dec. 10, 1985. In conference.

H.R. 2817 (Eckart)
Superfund Amendments of 1985. Amends and reauthorizes CERCLA for 5 years. Introduced June 20, 1985; referred to and reported from Committees on Energy and Commerce, Public Works and Transportation, Ways and Means, Judiciary, and Merchant Marine and Fisheries. (H.Rept. 99-253, Parts 1-5). Passed House, amended, Dec. 10, 1985; text inserted in H.R. 2005.

S. 51 (Stafford)
Superfund Improvement Act. Amends and reauthorizes the Superfund for 5 years. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Reported Mar. 18, 1985 (S.Rept. 99-11). Referred to Committee on Finance Apr. 15, 1985. Reported, amended, May 23, 1985 (S.Rept. 99-73). Referred to Committee on Judiciary May 24, 1985; discharged June 14, 1985. Passed Senate, amended Sept. 24, 1985; text inserted in H.R. 2005.

S. 1920 (Lautenberg)
Extends Superfund taxing authority to Mar. 1, 1986, beginning retroactively on Oct. 1, 1985. Introduced Dec. 10, 1985; referred to Committee on Finance.

WATER QUALITY

H.R. 8 (Roe)
Water Quality Renewal Act of 1985. Amends and reauthorizes the Clean Water Act for 4 years. Introduced Jan. 3, 1985; referred to Committee on Public Works and Transportation. Subcommittee hearings held Apr. 25 and 30. Approved by subcommittee May 21. Approved by committee May 22. Reported July 2 (H.Rept. 99-189). Passed House, amended, July 23, 1985 (340-83). Laid on table in House; S. 1128 passed in lieu.

S. 53 (Stafford)
Clean Water Act Amendments of 1985. Amends and reauthorizes the Clean Water Act for 4 years. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985. See S. 1128 for details.

S. 652 (Chafee)
Amends and reauthorizes the Act through FY89. Includes provisions to establish Water Pollution Control Revolving Funds program for wastewater treatment construction. Introduced Mar. 7, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985. See S. 1128 for details.

S. 793 (Chafee, by request)
Amends and reauthorizes the Act. Includes sections to authorize 10-year discharge permits, extend certain industrial compliance deadlines, and terminate the Title II construction grants program by FY89. Introduced Mar. 29, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held Mar. 26-28, 1985.

S. 1128 (Chafee)
Provides reauthorization of the Clean Water Act for FY86-89. Also reauthorizes Title II construction grants assistance through FY90, establishes new program of Water Pollution Control Revolving Funds through FY94. These funds to be distributed under revised State-by-State allotment formula. An original bill reported by the Environment and Public Works Committee May 14, 1985 (S.Rept. 99-50). Considered by Senate June 12-13 and passed, amended, June 13, 1985 (94-0). Passed House, amended, in lieu of H.R. 8. Conference committee met Mar. 26, May 14, 1986.

TOXIC SUBSTANCES IN THE ENVIRONMENT

H.R. 638 (Barnes)
Restricts export of goods determined to be public health hazards. Introduced Jan. 24, 1985; referred to Committee on Foreign Affairs.

H.R. 965 (Florio)
Amends the Solid Waste Disposal Act and the Toxic Substances Control Act to prevent releases of toxic and hazardous substances which are presently not adequately controlled; establishes a community right to know of the risks associated with hazardous substances to which they may be exposed; and protects the rights of individuals exposed to hazardous substances. Introduced Feb. 6, 1985; referred to Committee on Energy and Commerce.

AIR QUALITY

H.R. 967 (Florio)
Amends the Clean Air Act to control emissions of hazardous air pollutants from stationary and mobile sources. Introduced Feb. 6, 1985; referred to Committee on Energy and Commerce.

H.R. 2576 (Wirth)
Toxic Release Control Act. Repeals Section 112 of the Clean Air Act; requires EPA to regulate 89 chemicals; establishes new comprehensive Federal control program. Introduced May 22; referred to Committee on Energy and Commerce. Subcommittee hearings held June 11, 1985.

H.R 4567 (Sikorski)
Acid Deposition Control Act. Requires a 10 million ton reduction by 1997 of sulfur oxides, and tightened nitrogen oxide standards by about 4 million tons by 1997. Includes a Federal interest subsidy program to help pay for control technology. Introduced Apr. 10, 1986. Approved by Subcommittee on Health and Environment May 20; referred to Energy and Commerce Committee. H.R. 5202 (Yatron) grants EPA $5 million over 5 years to address indoor radon through R&D programs. Refrains from authorizing EPA to directly regulate indoor environments. Introduced July 17, 1986; referred to Committee on Science and Technology.

H.R. 5202 (Yatron)
Grants EPA $5 million over 5 years to address indoor radon through R&D programs. Refrains from authorizing EPA to directly regulate indoor environments. Introduced July 17, 1986; referred to Committee on Energy and Commerce.

S. 52 (Stafford)
Acid Rain Control Act of 1985. Requires a 10-million ton reduction of sulfur dioxide emissions in the 31-State region of the Eastern United States over a 10-year period. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works.

S. 2203 (Stafford et al.)
Based on stationary and mobile source performance standards, would limit power plant sulfur emissions per Btu (British thermal unit). Introduced Mar. 18, 1986; referred to Committee on Environment and Public Works.

S. 2577 (Lautenberg)
Provides that amounts paid for home improvements to mitigate indoor air pollutants qualify for tax deductions for medical care expenses. Introduced June 19, 1986; referred to Committee on Finance.

S. 2710 (Heinz)
Directs EPA to establish and coordinate a nation-wide R&D information program on radon. Introduced Aug. 1, 1986; referred to Committee on Environment and Public Works.

DRINKING WATER

P.L. 99-339, S. 124
Safe Drinking Water Act Amendments. Reauthorizes SDWA and provides further protection of aquifers and tighter regulation of underground injection of hazardous wastes. Introduced Jan. 3, 1985; referred to Committee on Environment and Public Works. Hearing held Mar. 21, 1985, by Subcommittee on Toxic Substances and Environmental Oversight; bill marked up and reported May 2. Full committee considered, marked up, and reported the bill May 15 (S.Rept. 99-56). Passed Senate May 16, 1985. Conference report (H.Rept. 99-575) approved by Senate May 21, 1986. Signed into law June 19, 1986.

S. 1197 (Bradley)/H.R. 3579 (Lent)
Amends the Safe Drinking Water Act to prohibit the use of lead pipes or lead solder in public water systems. S. 1197 introduced May 22, 1985; referred to Committee on Environment and Public Works. Hearing held May 23 (S.Hrg. 99-106). Incorporated into S. 124. H.R. 3579 introduced Oct. 17, 1985; referred to Committee on Energy and Commerce and to Committee on Veterans' Affairs.

GROUNDWATER

P.L. 99-339, S. 124
See above.

H.R. 360 (Johnson)
Authorizes EPA to make grants for providing alternative water supplies to replace contaminated groundwater. Introduced Jan. 7, 1985; referred to Committee on Energy and Commerce. Incorporated into H.R. 8.

H.R. 3906 (Gejdenson)
Provides for the assessment by the U.S. Geological Survey of the quality of the Nation's groundwater and surface water resources. Introduced Dec. 11, 1985; referred to Committee on Interior and Insular Affairs.

S. 1836 (Mitchell)/H.R. 3808 (Bustamante)
Provides for the protection of groundwater through State standards, planning, and protection programs. S. 1836 introduced Nov. 7, 1985; referred to Committee on Environment and Public Works. H.R. 3808 introduced Nov. 21, 1985; referred to Committee on Energy and Commerce, Committee on Interior and Insular Affairs, and Committee on Public Works and Transportation.

PESTICIDES

P.L. 99-198, H.R. 2100
Includes an extension of FIFRA for one year. Signed into law Dec. 23, 1985.

H.R. 2482 (Bedell)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes. Introduced May 14, 1985; referred to Committee on Agriculture. Text of H.R. 4364, as amended, substituted for H.R. 2482 and reported July 18, 1986 (H.Rept. 99-695).

H.R. 2580 (Brown, G.)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act to better protect the public from the hazards of pesticides, and for other purposes. Introduced May 22, 1985; referred to Committee on Agriculture.

H.R. 4364 (Bedell and Roberts)/S. 2215 (Lugar)
Amends FIFRA to ensure safer pesticides and to better protect the public and the environment; and for other purposes. H.R. 4364 introduced Mar. 11, 1986; referred Commit-

tee on Agriculture. Reported to House (H.Rept. 99-695) June 18, 1986. S. 2215 introduced Mar. 20, 1986; referred to Committee on Agriculture, Nutrition, and Forestry. Ordered reported to Senate on Aug. 13, 1986.

S. 1303 (Proxmire)
Amends the Federal Insecticide, Fungicide, and Rodenticide Act to better protect the public from the hazards of pesticides, and for other purposes. Introduced June 17, 1985; referred to Committee on Agriculture, Nutrition, and Forestry.

OCEAN DUMPING

H.R. 1957 (Mikulski)
Ocean Dumping Amendments of 1985. Reauthorizes the Ocean Dumping Act for FY86 and FY87. Terminates harmful municipal sludge dumping and establishes a New York Bight Restoration Plan. Introduced Apr. 3, 1985. Reported from the Committee on Merchant Marine and Fisheries (H.Rept. 99-107, Part 1) May 15, 1985. Reported from Committee on Public Works and Transportation (H.Rept. 99-107, Part 2) June 19, 1985. Passed House Dec. 10, 1985.

EPA's BUDGET

P.L. 99-160, H.R. 3038
HUD-Independent Agencies Appropriation Bill. Authorizes appropriations for FY86 for the Environmental Protection Agency. Reported from the House Committee on Appropriations (H.Rept. 99-212) July 18, 1985. Passed House July 25, 1985. Reported from Senate Committee on Appropriations (S.Rept. 99-129) Aug. 28, 1985. Passed Senate Oct. 18, 1985. Conference report (H.Rept. 99-363) approved by both House and Senate Nov. 13, 1985. Signed into law Nov. 25, 1985.

P.L. 99-349, H.R. 4515
Supplemental Appropriations, FY86. Transferred $3 million from research and development funding to salaries and expenses, and restated the G-R-H reductions be evenly applied; released an additional $1.2 million for water pollution control grants. Introduced Mar. 25, 1986. Signed into law July 2, 1986.

H.R. 5313 (Boland)
HUD-Independent Agencies Appropriation Bill, FY87. Reported from House Committee on Appropriations on July 31, 1986 (H.Rept. 99-731).

Environmental Protection Section

FINANCIAL AND FISCAL AFFAIRS

MLC-023

FINANCIAL INSTITUTIONS' COMPETITION AND REGULATION: CURRENT LEGISLATIVE ISSUES

...reexamination of statutory arrangements...

Rapid developments in the financial system are prompting a reexamination of statutory arrangements for the financial services industry and its regulators. Among the questions before the 99th Congress are whether firms offering deposit services should be able to engage in a broad range of financial and commercial services, whether the structural arrangements of the Federal regulatory agencies for depository financial institutions could be improved, and whether the Federal deposit insurance mechanism needs to be amended.

Laws enacted in this Congress through August 1986 include P.L. 99-120, P.L. 99-222, P.L. 99-278, and P.L. 99-400. P.L. 99-120, P.L. 99-278, and P.L. 99-400 all extend certain provisions of the Garn-St Germain Depository Institutions Act of 1982 giving the Federal financial regulatory agencies various authorities to aid in resolving problem-depository-institutions cases. The most recent extension is to Sept. 15, 1986. P.L. 99-222 makes all entities that exercise fiduciary power and hold stock on behalf of customers subject to regulations of the Securities and Exchange Commission for processing proxy materials.

Other bills are pending. On Jan. 23, 1986, the House passed H.R. 2443, the Expedited Funds Availability Act, with amendments. Among the bills reported by the House Banking Committee are those dealing with nonbank banks, interstate banking, and examinations of depository institutions; bills ordered reported by the Senate Banking Committee include those dealing with deposit insurance and related issues. S. 2752, for example, provides for recapitalization of the Federal Savings and Loan Insurance Corporation and gives the Federal bank regulators more flexibility in dealing with troubled banks.

LEGISLATION

P.L. 99-120, H.J.Res. 393
Provides for the temporary extension of certain programs relating to housing and community development, and for other purposes. Signed into law Oct. 8, 1985.

P.L. 99-222, H.R. 1603
Official title as introduced: Shareholder Communications Act of 1985. Amends the Securities Exchange Act of 1934

to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

P.L. 99-278, H.R. 4551
Amends the Garn-St Germain Depository Institutions Act of 1982 to extend the Deposit Insurance Flexibility Act and the Net Worth Certificate Act until July 15, 1986. Signed into law Apr. 24, 1986.

P.L. 99-400, H.R. 5371
Extends until Sept. 15, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982. Signed into law Aug. 27, 1986.

H.R. 20 (St Germain)
Banking Definition Act of 1985. Amends the definition of a bank for purposes of the Bank Holding Company Act of 1956. Introduced Jan. 3, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, June 18, 1985 (H.Rept. 99-175).

H.R. 2443 (St Germain)
Expedited Funds Availability Act. Limits the number of days a depository institution may restrict the availability of funds which are deposited in any account. Introduced May 8, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, Nov. 26, 1985 (H.Rept. 99-404). Passed House, amended, Jan. 23, 1986.

H.R. 2707 (St Germain)
Authorizes certain interstate acquisitions of depository institutions. Introduced June 11, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, June 18, 1985 (H.Rept. 99-174).

H.R. 4917 (Carper)
Depository Institution Examination Improvement Act of 1986. Improves the quality of depository institutions, and for other purposes. Introduced June 3, 1986; referred to Committee on Banking, Finance and Urban Affairs. Ordered reported, amended, Aug. 13, 1986.

S. 2231 (Garn)
Agricultural and Energy Bank Incentive Act of 1986. Amends the Federal Deposit Insurance Act. An original bill reported by the Senate Committee on Banking, Housing, and Urban Affairs, Mar. 26, 1986.

S. 2752 (Garn)
Extends titles I and II of the Garn-St Germain Depository Institutions Act of 1982, provides for emergency acquisitions of banks in danger of closing, recapitalizes the Federal Savings and Loan Insurance Corporation, and for other purposes. An original bill reported by Committee on Banking, Housing, and Urban Affairs, Aug. 13, 1986.

F. Jean Wells
IB85020

FOREIGN POLICY AND ASSISTANCE PROGRAMS

MLC-024

ANGOLA: ISSUES FOR THE UNITED STATES

...pressure for negotiations...

An Administration official testified on Feb. 18, 1986, that the United States had decided to supply covert military assistance to Jonas Savimbi's UNITA guerrilla movement in Angola; and the Washington Post reported on March 30 that this aid would include shoulder-fired Stinger anti-aircraft missiles. Administration spokesmen have argued in favor of aiding UNITA as a means of pressuring Angola to enter into negotiations leading to a withdrawal of Cuban troops and a general settlement of southern Africa's conflicts. Others argue in favor of an expanded aid program to Savimbi because they believe he is in a position to inflict a significant defeat on the Marxist Angolan government and its Soviet ally. A third view is that U.S. aid to Savimbi will destabilize the region, leading to further Soviet and Cuban intervention and intensified fighting costly to U.S. interests. Other Angola-related issues of concern in Congress include the role of the U.S. Export-Import Bank in the development of the Angolan oil industry and the continued operations of some U.S. companies within Angola.

LEGISLATION

H.R. 4510 (Neal)/S. 2247 (Heinz)
Export-Import Bank Act Amendments of 1986. Amendment offered in the House by Representatives McCollum to prohibit the Export-Import Bank from guaranteeing, insuring, or extending credit to Angola in connection with any export except food aid until the President certifies that no Cuban troops remain in Angola. Amendment approved by a voice vote July 15, 1986. A Senate amendment offered Senators Proxmire and Armstrong adds language prohibiting aid through the Bank to listed Marxist-Leninist countries, including Angola. Countries may be removed from the list if the President determines that they do not maintain a centrally planned economy and are independent of the Soviet Union; but Angola may be removed only if, in addition, the President determines that Cuban military personnel and personnel from other countries under export controls have been withdrawn. Approved by a voice vote July 21, 1986. Amendment by Senator DeConcini requests the President to invoke the International Emergency Economic Powers Act to block U.S. business transactions that conflict with U.S. interests in Angola. Approved by a voice vote July 22, 1986. H.R. 4150 passed by House July 15, 1986; passed the Senate, with the provisions of S. 2247 substituted, July 22.

H.R. 4759 (Hamilton)

Intelligence Appropriations. Sec. 107 prohibits use of funds for direct or indirect conduct of military or paramilitary operations in Angola; or the provision of assistance to any group engaged in such operations, unless such use is openly acknowledged and approved by a joint resolution as specified in H.R. 4276. Introduced May 7, 1986; reported (H.Rept. 99-690, Part I) by Select Committee on Intelligence July 17 and referred jointly to Committees on Armed Services, on the Judiciary, and on Post Office and Civil Service.

Raymond W. Copson; Robert B. Shepard
IB81063

MLC-025

FOREIGN AID ISSUES IN 1986

...a budget freeze?...

The FY86 foreign aid budget request of $16.6 billion (as amended in May 1985) exceeded the level of foreign assistance appropriations provided for FY85 in the Continuing Resolution (P.L. 98-473) by 5.6% in nominal terms and by 1.8% in real growth. Some congressional critics believed that foreign aid should be subject to a budget freeze or reduction like so many other Federal programs. Other critics found no fault with the volume of aid but disagreed with the Administration as to how and where the funds should be spent. By year's end, Congress approved a $15.22 billion foreign aid budget, $1.1 billion, or 7%, less than the President's request. However, this appropriation was subject to sequestration reductions under the terms of P.L. 99-177, making FY86 funds available more than 11% less than requested by the President.

In 1985, the foreign aid debate focused on the following major issues:

Continued increase in the size of foreign assistance programs. The FY86 budget represented a 5.6% increase over the regular FY85 appropriation (excludes FY85 supplemental appropriations). The new request would have put foreign aid 64% higher than in FY81. In terms of real growth, the FY86 budget would have been 1.8% more than in FY85 and 32% higher than in FY81.

Emphasis on military aid programs. The foreign aid recommendation for FY86 would have increased military aid by over 11%, boosted the security-related Economic Support Fund (ESF) by nearly 5%, but reduced development and food assistance by nearly 6%, in nominal terms. Increases in military aid for Israel and Egypt accounted for $525 million of the $754 million rise in military spending. Military aid as a share of the total foreign assistance program would also have grown from 38% in FY85 to 40.5% in FY86.

Significant reductions in some development aid accounts. The President recommended cutting funds for a number of development assistance programs, including the population and health accounts. In recent years, Congress has increased both of these activities beyond the Administration's request.

Changed policy on use of family planning funds. In July 1984, the President announced changes in policy regarding U.S. support for overseas family planning programs. Among those changes was a prohibition on U.S. assistance to any international family planning agency that promotes abortion or abortion-related activities as part of its program, regardless of whether U.S. funds are used for these purposes. Since implementing this new policy, the United States has declared the International Planned Parenthood Federation ineligible for U.S. family planning aid. In another action, AID withheld $10 million from the U.N. Fund for Population Activities because of UNFPA's program in China -- a country which allegedly promotes coercive family planning practices. While the President implemented this new policy without legislative change, some congressional critics agreed that the policy went beyond the intent of Congress as expressed in the Foreign Assistance Act of 1961.

Increased aid for Israel and Egypt. For FY86, the President sought an increase in military aid for both Israel and Egypt. Israel's military assistance would rise from $1.4 billion to $1.8 billion, while support for Egypt would grow from $1.175 billion to $1.3 billion. The FY86 budget request also included about $1 billion in economic and food aid for Egypt and $1.2 billion for Israel, about the same provided in FY85. Israel also asked for a special $1.5 billion supplemental to counter a severe foreign exchange shortage and other economic problems. This amount was in addition to the regular FY85 program of $1.2 billion.

Following requests from both Israel and Egypt for additional economic assistance to counter severe foreign exchange shortages and other economic problems, the Administration submitted a supplemental request in May 1985 of $1.5 billion for Israel and $500 million for Egypt to be provided in 1985 and 1986. These sums were in addition to the regular FY85 and FY86 aid packages for Israel and Egypt.

FY86 Foreign Aid Authorization Legislation

In most years, Congress will consider one worldwide foreign aid authorization bill that deals with most, but not all, foreign aid programs. The legislation authorizes appropriations for nearly all bilateral activities and U.S. voluntary contributions to international organizations, and makes policy changes concerning food aid (P.L. 480). However, the bill usually does not address multilateral development bank (MDB) issues or set specific annual funding levels for food assistance.

These matters are dealt with in authorization bills considered on an irregular basis, as necessary, and annual appropriation measures. Therefore, the aggregate size of the annual foreign aid authorization bill, labeled as the "International Security and Development Cooperation Act" in recent years, is substantially less than the total foreign aid budget (appropriation) request that includes funds for all programs. For FY86, the President's foreign aid authorization request was $13.2 billion.

On Apr. 11, 1985, the House Foreign Affairs Committee recommended a $13.05 billion authorization for foreign assistance for each of FY86 and FY87 (H.R. 1555). This level was about $170 million less than the President's request but about $600 million above FY85 funding. The House Committee also shifted funds from military and Economic Support Fund (ESF) activities to development programs.

In other provisions, the committee approved the supplemental economic aid package for Israel and Egypt, placed tough conditions on military aid and sales to Jordan, shifted military funds to economic programs for the Philippines, included $5 million for non-Communist Cambodian resistance forces, and relaxed Administration conditions on U.S. support for the IPPF, UNFPA, and other international family planning goups.

Under pressure to further reduce spending for foreign aid, the full House cut back the committee-approved authorization to $12.6 billion when the bill was taken up in early July. During three days of debate on 71 amendments, lawmakers approved, among other matters, new airport security regulations, added $27 million for humanitarian aid to anti-government Nicaraguan forces -- but prohibited CIA involvement in administering the money, repealed the so-called "Clark amendment" that had banned U.S. support for anti-government groups in Angola since 1976, and reversed committee actions on population programs.

On the Senate side, the Foreign Relations Committee reported its bill (S. 960) on Apr. 19, 1985, recommending a $12.8 billion foreign aid authorization. For the most part, S. 960 incorporated the program levels for FY85, or the President's FY86 request, whichever was less. Even so, the legislation was about $200 million higher than funding set for FY85 in the Continuing Resolution (P.L. 98-473). Military aid fell nearly $350 million below the Administration's FY86 budget, and ESF was reduced by about $180 million; development assistance, however, was slightly higher than the President's request. The bill endorsed the request for Central America and did not contain the FY85 supplemental for Israel or restrictive provisions concerning Jordan and the Philippines as found in the House bill. S. 960, however, modified the new family planning policy implemented in July 1984 by loosening eligibility requirements for non-governmental organizations and by tightening restrictions on groups performing services in countries that practiced involuntary abortion policies.

During a 2-day debate, the Senate passed S. 960 on May 15 by a vote of 75-19. Although the Senate adopted 34 amendments to the committee-reported legislation, Senators refrained from increasing the $12.8 billion FY86 foreign aid authorization recommended by the Foreign Relations Committee and from shifting funds among the economic and military aid accounts. Changes made during Senate debate included the addition of an FY85/FY86 economic aid supplemental of $1.5 billion for Israel and $500 million for Egypt, making available from existing funds $15 million in humanitarian assistance for the Afghan people, and the authority to utilize $5 million from economic and military aid accounts to support non-communist resistance forces in Cambodia.

Shortly before the August recess, Congress approved a conference report on S. 960 that set foreign aid spending at $12.77 billion for each of FY86 and FY87. This level represented a virtual budget freeze for foreign aid authorizations during the next two years. The final bill cut the President's overall request by nearly $500 million, trimmed military spending by about $440 million and ESF by $224 million, and added $175 million for development and other economic aid programs. Besides including matters that were common to both bills -- such as the $2 billion in supplemental aid for Israel and Egypt -- House and Senate conferees resolved major differences between the two measures in the following manner: kept the $27 million "contra" aid but banned CIA involvement in administering the assistance; made conditions on Jordan aid non-binding; and shifted some military aid to economic assistance, but not as much as proposed by the House, for the Philippines. Conferees dead-locked on the issue of family planning policy and therefore dropped all provisions from the final bill other than an FY86/87 authorization of $290 million.

Although the Administration expressed strong opposition to various provisions in the bill -- particularly to the reductions in security aid -- President Reagan signed S. 960 (P.L. 99-83) on Aug. 8, 1985.

FY85 Supplemental Appropriation

The House (June 12) and Senate (June 20) passed H.R. 2577, a measure providing supplemental appropriations for FY85. The House bill included $2.25 billion in additional foreign assistance funds while the Senate version provided $2.5 billion for foreign aid. The executive branch requested $2.5 billion. Of that amount, both House and Senate language appropriated $237 million for U.S. payments to several multilateral development banks, $1.5 billion for Israel, and $500 million for Egypt. The Senate also added, at the request of the Administration, $250 million in supplemental economic aid for Jordan.

In a related matter, the House inserted $27 million humanitarian assistance for Nicaraguan democratic resistance to be administered by an agency other than the Central Intelligence Agency or the Department of Defense. The Senate increased the amount to $38 million, but did not restrict which agency would be responsible for administering the money other than to direct the National Security Council to monitor the utilization of funds.

The final bill, approved by Congress on Aug. 1, 1985, included the full $2.5 billion as passed by the Senate, but retained the House language regarding U.S. aid to the Nicaraguan contras. The President signed the bill (P.L. 99-88) on Aug. 15, 1985.

FY86 Foreign Assistance Appropriations

Faced with continuing concern over the Federal budget deficit, the House Appropriations Committee recommended on Aug. 1, 1985, an FY86 foreign aid appropriation measure (H.R. 3228) of $13.77 billion -- a level that was $700 million less than FY85 and $1.2 billion less than the President's FY86 request. (These comparisons exclude amounts also provided in H.R. 3228 for the Export-Import Bank.)

The committee applied a somewhat complicated reduction formula that, for many programs, resulted in a 17% cut from the President's recommendation. The reductions were made in all accounts -- multilateral development banks, cut $54 million; bilateral development aid, reduced $145 million; ESF, down $373 million; and military aid, cut $754 million. However, the House panel restored funds to a few programs -- the Child Survival Fund, narcotics control activities, and the American Schools/Hospitals Abroad program -- by transfering money still available for economic projects in Lebanon. These funds were deemed unusable under present conditions in Lebanon. The committee also exempted aid levels for Israel and Egypt from any reductions. Under the bill, Israel would receive $3.1 billion in economic and military assistance while Egypt would get $2.1 billion.

The Senate Appropriations Committee, in its report on foreign aid spending (S. 1816), recommended $14.4 billion, a level about mid-way between the House and executive branch figures. Compared with the House measure, the Senate's bill made further cuts to multilateral aid programs (-$118 million), increased some bilateral development activities (agriculture, +80 million), and boosted ESF and military aid spending (+148 million and +$366, respectively). Aid levels for Israel and Egypt were identical to the House bill. The legislation also provided the authority to reduce the interest rate on repayments of past military loans to Israel. This proposal would save Israel about $331 million in debt service in FY86.

When Congress did not take up either of these bills, Senate and House Committees met and revised their foreign aid recommendations to be included in the Continuing Appropriations for FY86, the omnibus spending measure that would fund programs for which regular appropriations had not been enacted. The House-passed Continuing Appropriations (H.J.Res. 465) provided $13.82 billion for foreign aid, while Senate-approved version included $13.95 billion. In its revised bill, the Senate also dropped the proposal to reduce interest rates on military loans to Israel.

As finally approved on Dec. 19, House and Senate conferees agreed to set foreign aid spending for FY86 at $13.92 billion. In separate action, Congress also approved $1.3 billion for overseas food aid, bringing the total foreign aid budget for FY86 to $15.22 billion. This was $1.1 billion, or 7%, less than the President's request. In specific categories, the legislation reduced the executive branch's budget for multilateral aid by $72 million (-5%), bilateral development aid by $22 million (-1%), ESF by $324 million (-8%), and military aid by $671 million (-10%). The Administration allocated these reduced amounts among recipient countries and international organizations according to congressional earmarks and executive branch priorities. These allocations were reported to Congress under section 653 of the Foreign Assistance Act of 1961.

Effects of Gramm-Rudman-Hollings

The Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings, P.L. 99-177, signed on Dec. 12, 1985) and the Sequestration Report (General Accounting Office, Report to the President, Budget Reductions for FY86, Jan. 21, 1986, GAO/OCG 86-1, or see the Federal Register of Jan. 15, 1986) called for a 4.3% reduction, or $654.46 million, in the total $15.22 billion foreign assistance program for FY86. The Administration applied the 4.3% reduction to the amounts it had allocated for each program by country after considering congressional cuts and redistribution. The GRH was applied to all programs, including earmarked programs.

The FY87 Foreign Aid Program

For FY87, the President included $16.3 billion in his budget request. That amount would have been 12% more than the amount available in FY86 and came under immediate congressional criticism. Working under the tight constraints of the Gramm-Rudman-Hollings (GRH) deficit reduction process, many Members of Congress have pledged to cut foreign aid as they try to allocate sufficient funds for their high-priority domestic programs, while the Administration is emphasizing defense spending. In the congressional budget resolution, the House recommended $11.6 billion and the Senate recommended $13.3 billion; the Budget Conference provided $12.9 billion for foreign aid and related programs (including about $1 million for the Ex-Im Bank which is generally not considered foreign aid). The House Appropriations Committee reported a bill that would provide $12.99 billion for foreign aid and related programs (including $900 million for Ex-Im Bank, but excluding the estimated $1.164 billion to be spent on P.L. 480 food assistance). The level of actual foreign assistance reflected by the House Appropriations Committee bill (minus Ex-Im, plus P.L. 480) is $13.25 billion. The bill also earmarks funds for Israel, Egypt, Pakistan, and Ireland at, or above, the level requested by the President. These earmarked amounts are primarily in the Economic Support Fund and Foreign Military Sales credit programs. If these levels and earmarkings are enacted, other countries such as Turkey, Greece, Spain, Portugal, Philippines, Thailand, Korea, El Salvador, Honduras, Kenya, and Somalia will probably receive 33-50% less ESF and FMS credits than they did in FY86.

LEGISLATION

P.L. 99-8, S. 689

African Famine Relief and Recovery Act of 1985. Authorizes $175 million in nonfood assistance to the drought-affected countries in Africa. H.R. 1096 introduced Feb. 19, 1985; referred to the House Committee on Foreign Affairs; reported (H.Rept. 99-3) Feb. 25, 1985; passed House, 391-25, Feb. 26, 1985. S. 457 introduced Feb. 19, 1985; referred to Senate Committee on Foreign Relations. Reported (S.Rept. 99-4) Feb. 21, 1985; H.R. 1096 amended in Senate by inserting the text of S. 457, as amended, and passed Senate (62-35) Feb. 27, 1985; House agreed to Senate amendment to H.R. 1096 Mar. 5, 1985; H.R. 1096 vetoed by the President (H.Doc. 99-37) Mar. 6, 1985. S. 689 introduced Mar. 19, 1985; passed Senate Mar. 19, 1985; passed House Mar. 21, 1985; signed into law (P.L. 99-8) Apr. 2, 1985.

P.L. 99-10, H.R. 1239

Makes urgent supplemental appropriations of $784 million for famine relief in Africa. Introduced Feb. 21, 1985; referred to House Committee on Appropriations; reported (H.Rept. 99-2, part I) Feb. 21, 1985, and (H.Rept. 99-2, part II) Feb. 25, 1985; passed House Feb. 28, 1985. H.R. 1239 referred to Senate Committee on Appropriations Mar. 5, 1985; reported (S.Rept. 99-8) Mar. 5, 1985; passed Senate, amended (98-1), Mar. 20, 1985; conference report filed in House (H.Rept. 99-29) Mar. 27, 1985; House agreed to conference report (400-19) Apr. 2, 1985; Senate agreed to conference report Apr. 2, 1985; signed into law (P.L. 99-10) Apr. 4, 1985.

P.L. 99-83, S. 960

International Security and Development Cooperation Act of 1985. Authorizes U.S. bilateral economic and military aid programs and contributions to international organizations for FY86 and FY87 (H.R. 1555 only). H.R. 1555 introduced, by request, Mar. 19, 1985; referred to House Committee on Foreign Affairs; reported (H.Rept. 99-39) Apr. 11, 1985; amended and passed the House July 11. S. 660 introduced, by request, Mar. 14, 1985; referred to Senate Committee on Foreign Relations; committee ordered reported a clean bill on Mar. 27, 1985; S. 960, a clean bill, introduced and reported (S.Rept. 99-34) Apr. 19, 1985; amended and passed Senate on May 15 (75-19). Conference report on S. 960 filed in the House (H.Rept. 99-237) July 29; Senate agreed to conference report July 30; House agreed to conference report July 31 (262-161). Signed into law (P.L. 99-83) Aug. 8, 1985.

P.L. 99-88, H.R. 2577

Supplemental Appropriations Act, 1985. Appropriates supplemental funds for FY85, including funds for foreign assistance. Introduced May 22, 1985; reported, with amendments, by the House Committee on Appropriations (H.Rept. 99-142) May 22; passed House, amended, June 12 (271-156); referred to Senate Committee on Appropriations June 13, 1985; reported with amendments (S.Rept. 99-82) June 13; passed Senate, amended, June 20. Conference report filed in the House (H.Rept. 99-236) on July 29; House agreed to conference report on July 31 (320-106); Senate agreed to conference report Aug. 1, 1985. Signed into law (P.L. 99-88) Aug. 15, 1985.

P.L. 99-190, H.J.Res. 465

Continuing Appropriations, 1986. Appropriates funds for FY86 for a number of programs, including foreign assistance. Introduced Nov. 21, 1985; reported by House Committee on Appropriations (H.Rept. 99-403) Nov. 21; passed House Dec. 4 (212-208); reported by Senate Committee on Appropriations (S.Rept. 99-210) Dec. 6; passed Senate Dec. 10; conference report (H.Rept. 99-450) filed in House; passed House Dec. 19 (261-137); passed Senate Dec. 19. Signed into law Dec. 19, 1985.

P.L. 99-349, H.R. 4515

Urgent Supplemental Appropriations for FY86. Includes additional assistance for Haiti and the Philippines, and aid to Northern Ireland. Reported to House from Committee on Appropriations (H.Rept. 99-510) Mar. 25, 1986. Passed House, amended, May 8. Reported to Senate from Committee on Appropriations with amendment (S.Rept. 99-301) May 15. Passed Senate, amended, June 6. Conference report filed in the House (H.Rept. 99-649) June 19, 1986. Signed into law July 2, 1986.

H.R. 3228 (Obey)/S. 1816 (Kasten)

Foreign Assistance Appropriations Act, 1986. H.R. 3228 introduced as a clean bill Aug. 1, 1985; reported by Committee on Appropriations (H.Rept. 99-252) Aug. 1, 1985. S. 1816 introduced as a clean bill Oct. 31, 1985; reported by Committee on Appropriations (S.Rept. 99-167) Oct. 31, 1985. (See H.J.Res. 465 for further action.)

H.R. 4329 (Fascell)/S. 2572 (Lugar)

Aid to Ireland and Northern Ireland Act of 1986. H.R. 4329 introduced Mar. 6; referred to Committee on Foreign Affairs. Reported Mar. 6, 1986. Passed House Mar. 11. Placed on calendar in Senate Mar. 18, 1986. H.R. 4329 passed Senate, amended, Aug. 13, 1986. Cleared for the President

Aug. 14, 1986. Committee on Foreign Relations ordered reported an original measure, S. 2572, June 12. S. 2572 reported (S.Rept. 99-326) June 19, 1986. Passed Senate July 17, 1986.

H.R. 5022 (Bryant)
Prevents U.S. foreign assistance funds from being used for the corrupt personal gain of any person or otherwise diverted from their intended use. Introduced June 12, 1986; referred to Committee on Foreign Affairs.

H.R. 5339 (Obey)
Appropriates funds for Foreign Assistance and related programs for FY87. Introduced Mar. 4, 1986; referred to Committee on Appropriations, and to Subcommittee on Foreign Operations. Reported to House (H.Rept. 99-747) Aug. 5, 1986.

H.Res. 395 (Panetta)
Directs the President to provide to the House documents relating to the use of specified funds appropriated for humanitarian assistance for the Nicaraguan democratic resistance. Introduced Mar. 11, 1986; referred to Committee on Foreign Affairs. Reported adversely to House (H.Rept. 99-585) May 7. Measure laid on table in House May 7.

H.Con.Res. 337 (W. Gray)/S.Con.Res. 120 (Domenici)
Sets forth the congressional budget for the Government for FY87 through FY89. H.Con.Res. 337 introduced May 13, 1986; referred to Committee on the Budget. Reported from Committee on the Budget (H.Rept. 99-598, Part I); reported from Committee on Rules (H.Rept. 99-598, Part II) May 13. Measure passed House, laid on table in House; S.Con.Res. 120 passed in lieu, May 15, 1986. S.Con.Res. 120 introduced Mar. 24, 1986; referred to Committee on Budget. Reported to Senate (S.Rept. 99-624) Mar. 24. Passed Senate, amended, May 2. Called up by special rule in House May 15. Measure passed House, amended, in lieu of H.Con.Res. 337, May 15. Conference report (99-664) filed June 26. House agreed to conference report June 26. Senate agreed to conference report and agreed to House amendment June 27, 1986.

S. 2610 (Lugar)
Philippines Assistance Act of 1986. Authorizes supplemental economic and military assistance for the Philippines. S. 237 introduced June 3, 1986; Committee reported (S.Rept. 99-330) an original bill (S. 2610) June 26, 1986. Referred to Committee on Foreign Relations.

Larry Q. Nowels

MLC-026

FOREIGN ASSISTANCE TO EL SALVADOR

...no specific cuts in aid ...

In 1986 Congress is considering President Reagans's request for $514 million in FY87 foreign aid, including $132.6 million in military assistance, to assist the government of Christian Democrat Jose Napoleon Duarte in the struggle against leftist guerrillas in El Salvador.

President Duarte was elected in two-round elections in March and May 1984 and his party unexpectedly won control of the legislature and the municipalities in the March 1985 elections. Since his inauguration in June 1984, he has curbed human rights abuses, achieved modest economic growth, and engaged in peace talks with the guerrillas on Oct. 15, and Nov. 30, 1984. Prospects for peace talks dimmed in mid-1985 when the guerrillas, increasingly on the defensive in the rural areas against the better equipped and trained Salvadoran military, stepped up attacks on urban targets. In major incidents they killed 13 people, including four off-duty U.S. Marines, at a sidewalk cafe in San Salvador on June 19, 1985, and then seized President Duarte's daughter on Sept. 10, 1985, and held her for six weeks before releasing her on Oct. 24, 1985, in exchange for guerrillas held in Salvadoran prisons. On June 1, 1986, President Duarte called for a third round of peace talks and the guerrillas responded favorably. Eventually the parties agreed to meet in Mexico City on Aug. 20, 1986, to set ground rules for the third round of talks. Human rights groups have praised Duarte for his efforts, but have argued that he has been unable to increase prosecutions for continuing human rights violations and to control the alleged indiscriminate attacks by the military against non-combatant civilians.

The President's request is similar to Administration requests for FY85 and FY86, which were generally approved by Congress, following Duarte's election. While the Congress made no specific cuts in aid to El Salvador last year, the Administration was able to allocate only $435.7 million in FY86 economic and military aid (compared to the request for $484.6 million) because of the shortfall in worldwide foreign aid authorization and appropriation funding levels and because of the additional reductions required by the Gramm-Rudman-Hollings Deficit Reduction Act. Similar reductions seem likely this year to meet budget reduction targets.

Foreign Aid Authorization for FY86 and FY87

Last year the Congress passed a 2-year foreign aid authorization bill (S. 960, P.L. 99-83) that authorized less world-wide aid for FY86 and FY87 than the President requested, but it generally supported the executive request for El Salvador. Breaking with recent practice, the Congress did not cut military aid to El Salvador, nor did it impose binding conditions on aid to the country. It failed, however, to complete action on the Central American Counterterrorism Program (S. 1915/H.R. 3463), proposed in September 1985, that would have provided an additional $22 million in military and police assistance for El Salvador.

The 2-year authorization measure, covering FY86 and FY87, softened the House passed conditions on aid to expectations and specified that the required semiannual reports would be on the extent to which the government of El Salvador: was pursuing a dialogue with the guerrillas; was controlling the military and security forces to insure that they were complying with international law and Presidential directives regarding the protection of civilians during combat operations; and was making progress to end the activities of the death squads, to establish an effective judicial system, and to implement the land reform program. Other provisions required that Congress be notified before the export of helicopters and aircraft to the country, that ESF funds be maintained in a separate account and be used for certain purposes, and that all aid be suspended if President Duarte were deposed by military coup. Still other provisions exempted El Salvador from existing prohibitions and permitted U.S. foreign assistance to be used to assist police or law enforcement agencies in the country and to provide compensation to owners of land expropriated under the country's land reform program.

Foreign Aid Appropriations for FY87

Last year the foreign aid appropriation was eventually incorporated into the omnibus continuing resolution (H.J.Res. 465, Further Continuing Appropriations for FY86), which Congress passed and the President signed into law (P.L. 99190) on Dec. 19, 1985. Like the authorization measure, it provided less worldwide aid than the President requested, causing a slight reduction in aid to El Salvador.

This year, the Congress is taking action on two appropriations measures – the Military Construction Appropriations Bill, and the Foreign Aid Appropriations Bill – that will have an impact on aid to El Salvador.

The Military Construction Appropriations Bill (H.R. 5052), as passed by the House on June 25, 1986, includes a Title II relating to Central America. This provision is best known for the fact that it would provide $100 million in military aid to the anti-Sandinista rebels, commonly known as the "contras". It would also provide $300 million in Economic Support Funds, to be taken from previously appropriated FY86 funds, for the Central American democracies, including El Salvador. Since no allocation of the $300 million in economic aid was given in the bill, it is impossible to determine how much of this assistance would go to El Salvador. Title II was incorporated into the bill under the rule for debate, and was approved by the House on June 25, 1986, on a 221-209 vote. The Senate Appropriations Committee voted 15-14 on Aug. 5, 1986, to add the House's version of Title II to their bill and reported the bill (S.Rept. 99-368) the same day. The Senate passed the measure on Aug. 13, 1986.

In action relating to the Foreign Assistance Appropriations Bill for FY87, the House Appropriations Committee reported out H.R. 5339 (H.Rept. 99-747) on Aug. 5, 1986, with worldwide aid set at $12.98 billion, about 10% below funding for the current year and 16% below the President's request. Since aid to Israel, Egypt, Pakistan, and Northern Ireland is protected under the proposed bill, other countries -- including El Salvador -- might face reductions of as much as 32% in Economic Support Funds and 51% in military assistance compared to FY86 levels of assistance. While hoping to achieve higher levels in the Senate, the Administration has threatened to veto the measure if passed in its present form.

In sections relating specifically to El Salvador the Committee-approved bill provides, similar to last year's appropriation measure, up to $1 million of ESF funds to assist El Salvador's Special Investigative Unit in bringing to justice those responsible for the murder of U.S. citizens, and it sets aside $5 million of military assistance until the President has reported that the government of El Salvador has substantially concluded all investigative action and has pursued all legal avenues to bring to trial those responsible for the January 1981 killing of three land reform specialists, including two Americans, in San Salvador.

Other provisions of the bill, similar to those in last year's foreign aid appropriation and authorization measures (see above), specify that ESF funds placed in El Salvador's Central Reserve Bank are to be maintained in a separate account, that appropriation committees are to receive the required reports on human rights conditions before furnishing aid to law enforcement agencies and are to be notified 15 days in advance of the provision of aircraft or helicopters to El Salvador, and that aid is to be suspended if a duly elected head of government is deposed by military coup or decree. The Committee's report also urges the Administration to increase its support for the land reform program in El Salvador and to submit a report on its projected long-term policy in the country.

LEGISLATION

P.L. 99-83, S. 960
Foreign Aid Authorization for FY86 and FY87. Introduced and reported by Senate Foreign Relations Committee Apr. 19, 1985 (S.Rept. 99-34), following markup Mar. 26 and 27, 1985.

The House Foreign Affairs Committee reported its bill (H.R. 1555), amended, Apr. 11, 1985 (H.Rept. 99-39) following markup Apr. 2 and 3, 1985. The Committee generally followed the recommendations adopted by the Subcommittee on Western Hemisphere Affairs Mar. 19, 1985. After passing H.R. 1555 with amendments and incorporating the text into S. 960, the House passed the Senate measure on July 11, 1985, clearing the way for conference.

Conferences for the House and Senate resolved differences and filed a conference report (H.Rept. 99-237) July 29, 1985. The Senate and House passed the conference compromise July 30 and 31, respectively, and the President signed the measure into law (P.L. 99-83) Aug. 8, 1985. The major compromise, contained in Section 702, softened the House's binding conditions into expectations and required the President to report to Congress on Oct. 1, 1985, and Apr. 1, 1986, on the extent to which the expectations are being met. Section 702 also contains the Senate provision congratulating President Duarte for his efforts to foster democracy in El Salvador as well as the House provisions requiring that Congress be notified before the export of helicopters or aircraft to El Salvador, that ESF funds be maintained in a separate account, that Development Assistance be earmaked at $79.6 million, and that all aid be suspended if President Duarte were deposed by a military coup. Section 711 contains the House provision that would exempt El Salvador from the prohibition on providing assistance to law enforcement forces if the President reports that the country has made significant progress in the proceeding six months in eliminating human rights violations. Section 1203 retains the provision in both the House and Senate bills that would waive a general prohibition (in Section 620(g) of the Foreign Assistance Act of 1961, as amended) and permit U.S. assistance to be used to compensate owners of land expropriated under El Salvador's land reform program if the President determines such aid to be in the national interest.

H.R. 5052 (Hefner)
Military Construction Appropriations for FY87. Reported (H.Rept. 99-648) to House from Committee on Appropriations June 19, 1986. Title II, added by the rule for debate, provides $100 million in military assistance to the anti-Sandinista rebels ("contras") in Nicaragua and $300 million in Economic Support Funds for the Central American democracies, including El Salvador. Passed, amended, June 25, 1986, by the House, and referred to Senate. Committee on Appropriations reported the bill to Senate on Aug. 5, 1986 (S.Rept. 99-368), with a Title II identical to the one passed by the House. The Senate passed the measure on Aug. 13, 1986.

H.R. 5339 (Obey)
Foreign Assistance Appropriations for FY87. The House Appropriations Committee reported (H.Rept. 99-747) its Foreign Assistance Appropriations Bill for FY87 on Aug. 5, 1986, with worldwide aid set at 10% below the funding for the current year and 16% below the President's request. Since aid to Israel, Egypt, Pakistan, and Northern Ireland is protected under the bill, aid to other countries -including El Salvador -- might be significantly reduced if the committee-approved bill were passed in its present form, although no specific cuts in aid to El Salvador were made in the bill.

The provisions dealing with El Salvador are very similar to provisions in last year's foreign assistance appropriation measure. In the subsection dealing with Economic Support Funds, the bill contains a provision requiring that ESF funds placed in the Central Reserve Bank of El Salvador be maintained in a separate account for easier monitoring, and specifies that up to $1 million of the funds be available to assist El Salvador's Special Investigative Unit in bringing to justice those responsible for the murders of U.S. citizens in El Salvador. The subsection of the bill dealing with Military Assistance, specifies that the notification required to provide police assistance to El Salvador be provided to the appropriations committees. The subsection on General Provisions contains several provisions relating to El Salvador. Section 513 provides that none of the funds may be obligated or expended to provide assistance to any country whose duly elected head of government is deposed by military coup or decree. Section 537 provides that no funds may be used to provide helicopters or other aircraft to El Salvador unless the Committees on Apropriations of both Houses are notified at least 15 days in advance. Section 545 sets aside $5 million of military assistance, until the President reports that the government of El Salvador has substantially concluded all investigative action and has pursued all legal avenues to bring to trial those responsible for the murder of two American land reform consultants in January 1981.

K. Larry Storrs

MLC-027

GENOCIDE CONVENTION

...further conditions?...

Recent activities on the Genocide Convention in the Senate followed a Reagan Administration announcement on Sept. 5, 1984, of support for ratification of the treaty. The Senate, on Oct. 11, 1984, adopted S.Res. 478 supporting the principles of the treaty and pledging expeditious action in 1985.

During the 99th Congress a subcommittee of the Senate Judiciary Committee as well as the Senate Foreign Relations Committee have held hearings on the Genocide Convention. The Senate Foreign Relations Committee on Apr. 25, 1985, began consideration of a report on the Convention. Disagreement within the Committee centered on whether the Committee should report the treaty with three understandings and one declaration (as the Committee had done since 1971) or whether four further conditions favored by Senators Helms and Lugar should also be included. On May 21, 1985, the Committee by a vote of 9 to 8 voted to accept the additional provisos supported by Senators Helms and Lugar. The Committee then voted to report the Convention with the provisos to the Senate.

On Oct. 16, 1985, President Reagan wrote to Senate Majority Leader Robert Dole urging Senate approval of the Convention. However, a unanimous consent request to provide for Senate consideration of the Convention on Dec. 10 was objected to; further Senate action was postponed until 1986.

On Feb. 26, 1986, the Senate voted 83 to 11 to approve U.S. ratification of the Convention on the Prevention and Punishment of the Crime of Genocide. The Senate gave its advice and consent to ratification subject to two reservations, five understandings, and one declaration as recommended by the Senate Foreign Relations Committee.

Before the President ratifies the treaty and in accordance with the declaration in the Senate resolution of ratification, implementing legislation must be enacted. Draft legislation was submitted by the Justice Department and was referred to the House Judiciary Committee on June 9, 1986. Thus, ratification of the Genocide Convention now awaits House and Senate action on domestic legislation making genocide and other acts crimes.

LEGISLATION

H.Res. 166 (Levine)

Expresses the sense of the House that the United States should ratify the Genocide Convention and pledges that the House will act expeditiously on the required implementing legislation. Passed House May 21, 1985.

S.Res. 347 (Dole)

Expresses the sense of the Senate regarding amendment of the Convention on the Prevention and Punishment of the Crime of Genocide. Passed Senate Feb. 19, 1986, by a vote of 93 to 1.

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MLC-028

JAPAN-U.S. RELATIONS

...troubled by persisting trade and defense issues...

As military allies and major trading partners, the United States and Japan have enjoyed a close relationship of cooperation in economic and security affairs. The relationship, however, has been troubled in recent years because of persisting trade and defense issues. These issues have focused on Japan's large trade surplus with the United States and differences about the contribution Japan should make in support of allied security interests. Current opinion in the United States and Japan and developments in international economic and security affairs suggest that Congress and the Reagan Administration will continue to confront these problems in charting American policy toward Japan.

Congressional attention focused in the early 1980s on several proposals to achieve "reciprocity" in foreign trade; to impose domestic (local content) ratios, requiring that cars and trucks sold in the United States in large quantities contain a certain percentage of American parts and labor; and to urge Japan to contribute more to allied defense. None was enacted into law. On defense, the Senate passed in December 1982 in the 97th Congress a resolution calling on Japan to "immediately increase its annual defense expenditures to the levels required for its forces to deploy fully by 1990 an effective conventional self-defense capability, including the capability to carry out its policy, announced by the Prime Minister in May 1981, of defending its sealanes of communication." There was no action on Japan's defense in the 98th Congress.

During the 98th Congress, a revised trade reciprocity bill (S. 144) passed the Senate on Apr. 21, 1983. Some of its provisions were included in a comprehensive trade law passed by the Congress in October 1984.

During the 99th Congress, the U.S. Senate on Mar. 28, 1985, and the U.S. House on Apr. 2, 1985, passed by wide margins separate nonbinding resolutions that called upon President Reagan to be more firm on trade issues with Japan. And on June 11, 1985, the Senate passed by an 88 to 7 vote an amendment to the Foreign Relations Authorization Act for FY86 calling on Japan to bear a greater share of the allied defense burden in Asia by fulfilling its announced defense buildup plans for the 1980s according to schedule. That buildup was said to be over one year behind schedule. The bill was approved by Congress on Aug. 1, 1985.

In late 1985, Congress focused on a plethora of proposed legislation designed to cut the size of the U.S. trade deficit with Japan, to compel the Japanse to open their markets more to U.S. products, and to curb Japanese exports that compete with sensitive U.S. industries. While the Reagan Administration remained critical of Japan's slowness in opening its markets to U.S. products, the Administration continued to take a strong stand against "destructively protectionist" legislative proposals.

On May 22, 1986, the House passed an omnibus trade bill (H.R. 4800). It contained provisions to toughen laws against unfair trade practices and to force foreign countries to reduce "excessive" trade surpluses -- steps that would impact heavily on Japan. President Reagan condemned the bill. (For a more complete list of legislation on U.S.-Japan trade issues, see IB81011: Japan-U.S. Trade Relations.)

Robert G. Sutter
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MLC-029

THE NATIONAL ENDOWMENT FOR DEMOCRACY

...to promote democracy abroad...

The first session of the 98th Congress authorized and appropriated funding for a newly established private, government-funded organization called the National Endowment for Democracy (NED), intended to support the growth of democratic ideas and institutions in foreign countries.

Many of the same members who objected to the idea of the NED and its Democratic and Republican party institutes tried again in the second session of the 98th Congress to delete funding for the Endowment as a whole, and, failing that, the party institutes in particular. The second session appropriated funds for the NED at the FY84 level, but added an administrative provision to the appropriation measure specifically prohibiting the granting of any NED funds to the Democratic or Republican party institutes or any other party-connected organization. Because this restriction applied only to FY85, the issue remained unresolved and had to be dealt with once again by the first session of the 99th Congress.

The House and the Senate took differing approaches in 1985 to authorizing and appropriating funds for the National Endowment for Democracy. The House generally took a more positive view of the NED, its institutes, and the programs which they supported. It preferred to permit the Endowment to function substantially as it had, while at the same time imposing new restrictions on certain types of activities, in order to meet the concerns noted by some members.

The Senate was more critical in its approach. It retained the prohibition originally imposed in FY85 on funding the Democratic and Republican party-related institutes. It also reduced funding for the NED to a lower level than was reported out by the Foreign Relations Committee.

The House also agreed to an amendment by Representative McCain requiring that certain provisions of the Freedom of Information Act be made applicable to the NED. The amendment made certain information on grant applications and other aspects of its operations available to the public upon request.

Representative Conyers unsuccessfully attempted to introduce an amendment to prohibit funding for the NED and to repeal the National Endowment for Democracy Act. Representative Hank Brown, who had previously strongly opposed U.S. Government funding for the NED, used the occasion to comment on what he called "substantial progress" achieved in the current session to correct opportunities for abuses or potential abuses in the NED's operation.

The final *authorization* legislation included a number of provisions affecting the National Endowment for Democracy. Accepting the thrust of House actions establishing new restrictions on NED operations, the conferees modified the language, requiring that the NED consult with the Department of State on all Endowment-funded overseas programs prior to their commencement. Other provisions (1) strengthened the prohibition against NED funds being used to finance political campaigns; (2) prohibited the use of NED funds for any activities of the Republican or Democratic National Committees; (3) prohibited grants to "any institute, foundation, or organization engaged in partisan activities" on behalf of the Republican or Democratic National Committees, or on behalf of any candidate for public office or any U.S. political party.

With these very specific injunctions against any use of any NED funds for partisan political purposes in the United States, supporters of continued NED funding for the Democratic and Republican party institutes were able to prevail.

The conferees also accepted the stronger Senate provision requiring that the NED fully comply with the Freedom of Information Act (FOIA). There is another provision, however, that establishes a procedure whereby the NED may determine not to supply information if it then submits a report to the USIA Director explaining why it has not complied with a particular request. If the Director approves the determination, USIA must assume full (including financial) responsibility for defending the Endowment in court. Should the Director disapprove, the Endowment then must comply with the request for information.

There is also a new section requiring that USIA facilitate requirements for publication of NED rules and procedures in the Federal Register.

The authorizing legislation provided not more than $18.4 million for NED for each of Fiscal Years 1986 and 1987 and deleted all earmarks and ceilings for grantees. Finally, the conference report includes a provision in both the House and Senate versions for annual audits of NED financial transactions by USIA.

The Appropriations Committees in both Houses generally followed the leads of the authorizing committees. While the House made little if any changes in the funding level and restrictions approved earlier in the authorization, the Senate Appropriations Committee substantially reduced the NED appropriation below the authorization level and retained the prohibition on funding the party institutes.

When the appropriations measure went to conference, the managers were able to agree on a compromise figure of $18 million for FY86, but a Senate amendment extending the FY85 prohibition on funding the party institutes remained in disagreement until the House voted to accept a compromise. The new language reiterated the restrictions developed for the authorization and added a stipulation placing further limitations on ties between the parties and the institutes.

When the conference report -- including this compromise -- was considered in the Senate, the upper chamber voted on a new amendment prohibiting funds for the party institutes. The amendment was defeated by an extremely close vote (43-44). Once this was accomplished, the Senate defeated an amendment by Senator Hollings denying funding for the NED, and accepted the compromise and the conference report, clearing the bill for the President's signature.

The National Endowment for Democracy and its four institutes had survived once more.

LEGISLATION

P.L. 99-93, H.R. 1931/H.R. 2068
State Department Authorizations, 1986 and 1987. Authorize appropriations for FY86 and FY87 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes. Open markup by House Foreign Affairs Subcommittee on International Operations held Mar. 26, 1985, prior to introduction Apr. 3, 1985. Marked up by Committee on Foreign Affairs Apr. 3, 1985, and ordered favorably reported by voice vote with an amendment in the nature of a substitute incorporating amendments adjusted by the full committee. Reported to House (H.Rept. 99-40) Apr. 11, 1985. Renumbered H.R. 2068 for technical reasons Apr. 17, 1985. Passed by House May 9, 1985. Passed by Senate (80-17), amended, June 11, 1985. Conference report (H.Rept. 99-240) agreed to by Senate (voice vote) July 31, 1985, and by House (350-74) Aug. 1, 1985. Signed into law Aug. 16, 1985.

P.L. 99-180, H.R. 2965
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY86. Makes appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for FY86. Markups held by Subcommittee June 20, 1985, and by full Committee July 11, 1985. Passed by House July 17, 1985 (273-136). Reported by Senate Appropriations Committee (S.Rept. 99-150) Oct. 4, 1985. Passed by Senate Nov. 1, 1984 (84-10). Conference report (H.Rept. 99-414) agreed to by House (voice vote) Dec. 5, 1985, and by Senate (voice vote) Dec. 6, 1985. President signed into law (P.L. 99-180) Dec. 13, 1985.

S. 1003 (Lugar)
Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. To authorize appropriations for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes. Open markup by Senate Foreign Relations Committee Apr. 2, 1985. Committee agreed to report consolidated draft bill as an original bill by a vote of 15-1. Reported to Senate (S.Rept. 99-39) Apr. 25, 1985. Considered by Senate June 6, 7, 10, and 11, 1985.

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MLC-030

NICARAGUA: CONDITIONS AND ISSUES FOR U.S. POLICY

...military aid to the "contras" approved...

During the latter half of 1986, Congress can be expected to closely watch the anti-Sandinista guerrillas ("contras") for demonstrations of growing military and political effectiveness in Nicaragua. The scrutiny is expected following the approval by both Houses of Title II of the Miliitary Construction Appropriations Bill (H.R. 5052), which provides for $100 million in assistance to the anti-Sandinista "contras," including $70 million in military assistance. The House approved the provision on June 25, 1986, by a 221-209 vote, and the Senate passed an identical measure on Aug. 13, 1986, by a 53-47 vote. These votes so-called contras' insurgency.

U.S. aid for military purposes under CIA authority was applied to the contras from 1981 through mid-1984. Congress refused further aid in 1984 after newspaper accounts stated that the CIA had been directly involved in the mining of Nicaraguan ports as part of the contras' anti-Sandinista military efforts. Continued House resistance to "military" aid had resulted in the provision of non-lethal, "humanitarian" aid from mid-1985 through Mar. 31, 1986, and limitations on the CIA that permitted it to provide only communications equipment and training during that period.

The House switch in favor of military aid in June 1986 and the Senate approval in August 1986 apparently resulted from new perceptions on two matters. First, Members became more inclined than in the past to accept the argument that greater military pressure by the contras was needed to induce the government of Nicaragua to negotiate an end to the conflict there. Second, many Members saw recent modifications in the contra leadership as providing a basis for gaining wider popular support for the insurgent effort in Nicaragua.

Still, a sizable minority of members continued to argue that the contra effort would not be able to capitalize on the reported increase in discontent with the Sandinista government in Nicaragua because the guerrilla command structure remained nominated by individuals bearing the stigma of past membership in former President Somoza's national guard and was plagued by corruption. Some also argued that if the United States should supply anti-aircraft missiles to the contras as permitted by the bill after Sept. 1, 1986, the conflict in Nicaragua would escalate dramatically, eventually creating conditions that would draw in U.S. forces directly.

Even many Members who voted to renew military aid saw further changes as necessary to increase the guerrillas' political and military effectiveness. Thus, as passed by the House and the Senate, H.R. 5052 provides for continued monitoring of the contra activities and of prospects for a negotiated settlement. In the report to Congress required to release funding increments after October 15, the President must specify what efforts are being made to broaden the contras' leadership base, coordinate efforts among the various resistance groups, eliminate human rights abuses, pursue a defined and coordinated political program, and subordinate military forces to civilian leadership. The President must also report in October and February on efforts to reach a negotiated solution to the conflict in Nicaragua. Under H.R. 5052, Congress would establish a bipartisan commission to provide reports to Congress on negotiation efforts that would parallel reports by the President, and any other reports that the Commission may deem necessary.

LEGISLATION

P.L. 99-145, S. 1160

Authorizes Department of Defense FY86 appropriations. Section 1451 states: "It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force." Signed into law Nov. 8, 1985.

H.R. 5052 (Hefner)

Military Construction Appropriations Bill. Passed House June 25, 1986. The Edwards amendment passed, 221-209, by the House earlier that day incorporates provisions on aid to the anti-Sandinista guerrillas as Title II of the bill. On Aug. 13, 1986, the Senate adopted the House provisions by a vote of 53-47. The Senate called for a conference on the bill the same day.

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MLC-031

PHILIPPINES UNDER AQUINO

...crisis remains...

The involvement of the United States in the Philippines' internal crisis entered a new stage with the fall of Ferdinand Marcos from power in February 1986 and the advent of the government led by Corazon Aquino. Except for Marcos' style of rule, the key issues of the crisis remain: the decline of political institutions, the poorly performing economy, and the Communist-led insurgency. The Aquino government has asked for assistance from the United States, and the Reagan Administration has promised support.

The immediate issue for Congress is the extent to which the United States should increase aid to the Philippines. The Reagan Administration requested supplemental aid for FY86. The major components are an additional $100 million in Economic Support Funds (ESF), which will supplement $125 million already approved for 1986; and $50 million in additional grant military assistance, which will supplement $40 million in grant military aid and $15 million in foreign military sales credits (FMS) already approved.

Congress approved the additional $150 million in supplemental appropriations legislation passed in June 1986 and is considering an additional $250 in economic aid proposed for FY86. The outlook for FY87 aid is less promising. Initial action on FY87 foreign aid legislation by the House Appropriations Committee may preclude any increase in aid to the Philippines and could result in a cut from the Reagan Administration's original request of $233.6 million.

LEGISLATION

P.L. 99-190, H.J.Res. 465

Further continuing appropriations for FY86. Modifies the Reagan Administration's requested aid for FY86. Provides $40 million in grant military assistance (MAP), $15 million in FMS, and $125 million in ESF to the Philippines. Signed into law (P.L. 99-190) Dec. 19, 1985.

P.L. 99-349, H.R. 4515
Urgent Supplemental Appropriations Act, 1986. Provides for an additional $100 million in Economic Support Funds for FY86, $50 million in grant military assistance, and the transfer of $29.3 million in previously appropriated FMS to grant military aid. Reported to House from the Committee on Appropriations (H.Rept. 99-510) Mar. 25, 1986. Passed House as amended May 8, 1986. Passed Senate as amended June 6, 1986. Conference report (H.Rept. 99-649) approved by House June 24, 1986, and by Senate June 26, 1986. Signed into law July 2, 1986.

H.R. 5081 (Solarz et al.)
Authorizes additional economic and military assistance to the Philippines. Authorizes for FY86 $100 million in ESF plus an additional $250 million in ESF and $50 million in grant military assistance. Introduced June 24, 1986; referred to Committee on Foreign Affairs. Reported, amended, July 30, 1986 (H.Rept. 99-722). Passed House, amended, Aug. 7, 1986. Referred to Senate Committee on Foreign Relations.

S. 2610 (Lugar)
Philippines Assistance Act of 1986. Authorizes $100 million in additional economic support fund for each of fiscal years 1986 and 1987 and $50 million in additional grant military assistance for FY86. Expresses the sense of Congress that the President should consider the feasibility of temporarily suspending collection of interest and principal on prior U.S. loans to the Philippines due to the United States in 1986 and 1987 until rescheduling negotiations have been completed. Introduced June 26, 1986; referred to Committee on Foreign Relations. Reported June 26, 1986 (S.Rept. 99-330).

Larry A. Niksch
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MLC-032

SANCTIONS AGAINST SOUTH AFRICA: CURRENT LEGISLATIVE ISSUES

...Reagan announces sanctions...

Congressional action in U.S. policy toward South Africa has intensified with the growing turmoil in that country. The Senate and the House have passed legislation strengthening sanctions already imposed on Pretoria. If adopted, the measure could still face a Presidential veto and congressional efforts to override. Last year in a similar situation, President Reagan announced limited sanctions by executive action in an attempt to head off a congressional override of his predicted veto.

The catalyst for heightened congressional interest was a series of South African developments in 1984 and 1985. The unrest in South Africa since September 1984 began as a reaction by South African blacks to the establishment of a new Parliament where Indians and coloureds (mixed race groups) in South Africa -- but not blacks -- would share power with whites on a national level. The South African government responded to violence in the black townships by declaring a state of emergency. The South African government, although showing restraint, reacted strongly, arresting large numbers of blacks conducting peaceful protests as well as those involved in violent clashes with police. Labor union leaders have been harassed, deaths in detention have occurred, and massive searches of private homes in the townships have been conducted. The government has also continued its forced relocation policy, although in recent months that policy has been reviewed and modified. A state of emergency was imposed in July 1985 but was lifted in March 1986. A new state of emergency was imposed in June 1986.

LEGISLATION

H.R. 4868 (Grey et al.), S. 2498 (Kennedy)
Introduced May 21, 1986; referred to Committees on Banking, Finance and Urban Affairs, on Foreign Affairs, on Public Works and Transportation, and on Ways and Means. An identical bill was introduced in the Senate (S. 2498) by Senator Kennedy et al. May 21, 1986. The House and Senate bills were identical as introduced, but as reported to the House floor H.R. 4868 dropped a provision which remains in S. 2498. That provision prohibits U.S. individuals, companies, or other entities from depositing money in South African banks.

The House passed the Dellums Amendment on June 18, 1986, as a substitute for the language of H.R. 4868, as originally introduced. The Dellums Amendment was one of three proposed amendments to the original H.R. 4868. Representative Burton proposed two amendments -- one failed and the other was agreed to. The rejected Burton Amendment would have exempted from the provisions of the original bill companies doing business in South Africa which had implemented the Sullivan principles of fair employment practices. The Burton Amendment which passed would have prohibited assistance to the African National Congress until its leadership body no longer included members of the South African Communist Party. This amendment, however, was eliminated when the Dellums Amendment was accepted as a substitute for the original language of the bill. H.R. 4868 passed Senate in lieu of S. 2701, amended, Aug. 15, 1986. Senate requested a conference Aug. 15, 1986. A bill identical to the Dellums Amendment (S. 2570) was introduced in the Senate on June 19, 1986.

H.R. 1460 (Grey et al.)
Anti-Apartheid Act of 1985. Expresses the opposition of the United States to the system of apartheid in South Africa and calls for certain steps against Pretoria. Specifically, bans bank loans to and new investment in South Africa, bans the sale of South African krugerrands in the United States, and

bans export sales to South Africa of computers, software, goods or technology intended to service computers. Bank loans and computer sales would take effect upon enactment and remain in force until the complete elimination of apartheid. New investment and krugerrand sales could be waived by the President if one of eight specified conditions were met by the South African government. The waiver would be for one year but could be extended for 6-month periods thereafter each time the South African government meets an additional condition. Waivers would require approval of both Houses of Congress.

On the floor two amendments were agreed to: H.Amdt. No. 63, introduced by Representative Zschau, encourages the President to consult with other countries on the implementation of future antiapartheid measures and requires annual reports from the President to Congress on the status of apartheid and human rights in South Africa. H.Amdt. No. 66, introduced by Representative Conyers, prohibits all nuclear assistance to South Africa, including equipment, material, and technology. Several other amendments were introduced on the floor but were rejected. These included mandatory Sullivan principles, prohibition of coal and uranium imports to the United States, relaxation of the ban on krugerrands (2 amendments), either polling or referendum for non-white South Africans to determine their position on divestiture and prohibition of new investments (2 amendments), prohibition of all U.S. investments in South Africa, prohibition of U.S. exports to South Africa, and barring the use of U.S. airfields to South African aircraft. The Gunderson Amendment, H.Amdt. No. 70, was also rejected. It would have added provisions similar to S. 995 introduced in the Senate by Senator Lugar.

Introduced Mar. 7, 1985; referred to Committees on Banking, Finance and Urban Affairs, on Foreign Affairs, and on Rules. Referred to Subcommittees on International Development Institutions and Finance, on International Economic Policy and Trade, on Human Rights and International Organizations and on Africa Mar. 15, 1985. Referred to Subcommittee on Financial Institutions Apr. 1, 1985. Foreign Affairs Committee reported to House with amendment (H.Rept. 99-76, part I) May 9, 1985. Rules Committee reported to House (H.Rept. 99-76, part II) May 15, 1985. Passed House, amended, June 5, 1985. Passed Senate July 11, 1985, in lieu of S. 995 but with the language of S. 995 substituted for the House language. Conference report (H.Rept. 99-242) filed Aug. 1, 1985. House agreed to conference report on the same day. Action delayed in Senate by the threat of a filibuster. Three cloture votes on Sept. 9, 11, and 12, 1985, in Senate failed to force a Senate vote on the conference report.

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MLC-033

U.N. FUNDING: CONGRESSIONAL ISSUES

...serious reassessment...

The appropriate level of U.S. financial support for the various organizations and programs comprising the U.N. system has been undergoing serious reassessment in recent years. Congressional actions on U.N. assessed contributions have resulted or may result in significant reductions in U.S. contributions for certain U.N. organizations. At the same time, Congress has raised funding for voluntary programs such as the U.N. Children's Fund (UNICEF) beyond the level requested by the Administration.

The U.N. system is financed by contributions from participating states: more than half are voluntary contributions; the rest are assessed contribution or required "dues" at levels established by the membership of each organization. The regular budget of the United Nations and those of the specialized agencies are funded by required contributions from members. The United States is required by article 17 of the U.N. Charter (a treaty ratified by the United States on Aug. 8, 1945) to contribute to the expenses of the organization. The scale of assessments -- which is based generally on a country's capacity to pay -- requires the United States to pay the maximum or 25% of the U.N. regular budget, while 78 members pay the minimum or .01%. Regardless of the size of assessment, each country has one vote on U.N. budget decisions. The United States as well as other major donors have been frustrated that -- despite their significant contributions to U.N. costs -- they have little control over the growth of the U.N. budget, increases that have been voted for by Third World majorities that contribute a small portion of the U.N. budget.

There has been strong congressional sentiment that if the United States is to continue to carry the major financial burden for U.N. programs, it must have a greater say over the budgetary process in the U.N. assessed systems. Last year Congress enacted a measure (sec. 143 of P.L. 99-93, introduced by Senator Kassebaum) requiring that the U.S.-assessed contribution to the United Nations and its specialized agencies not exceed 20% of the total budgets of those organizations for FY87 and following years unless the United Nations and its specialized agencies adopt procedures that grant voting rights on budgetary matters proportionate to budget contributions by each member state.

The United Nations has responded to U.S. concerns by making a number of administrative and budgetary changes and establishing a Group of High-Level Intergovernmental Experts to review and make recommendations on the functioning of the United Nations. The Administration found these actions insufficient grounds for delaying implementation of the Kassebaum amendment. Thus, the Administration request for U.N. assessed programs for FY87 contained a reduction of $79.1 million for that account.

Reductions mandated by the Gramm-Rudman-Hollings sequestration process reduced the U.N. assessed account for FY86 by more than $18 million with the largest share -- $12.8 million -- resulting in a 11% reduction in the U.N. regular budget.

Another measure (introduced by Representative Sundquist and enacted as sec. 151 of P.L. 99-93) required the Secretary of State to report to Congress by June 1, 1986, on kickbacks reportedly paid by some U.N. employees to their governments. If such practices were found and continued, the U.S. contribution was to be reduced.

The Administration requested $432.93 million for FY87 for U.S. assessed contributions to international organizations (U.N. assessed budgets, Inter-American and other international organizations). On July 17, the House passed H.R. 5161 appropriating $405.43 million for international organizations. This amount may be further reduced by an amendment that reduced all discretionary programs funded by H.R. 5161 by 5.03%.

In contrast to congressional actions on U.N. agencies with assessed budgets, many U.N. voluntary programs -- such as the U.N. Development Program (UNDP) and UNICEF -- have received substantial congressional financial support. The Administration requested $186 million for FY87 for U.S. voluntary contributions to international organization and programs. The House Appropriations Committee's Subcommittee on Foreign Operations on July 24 raised that amount to $233.995 million.

LEGISLATION

P.L. 99-83, S. 960

International Security and Development Security Act of 1985. Authorizes U.S. foreign aid programs for FY86 and FY87, including contributions to U.N. voluntary programs. H.R. 1555 introduced, by request, Mar. 19, 1985; referred to House Committee on Foreign Affairs; reported (H.Rept. 99-39) Apr. 11; amended and passed by House July 11. S. 660 introduced, by request, Mar. 14, 1985; referred to Senate Committee on Foreign Relations; committee ordered reported a clean bill Mar. 27; S. 960, a clean bill, introduced and reported (S.Rept. 99-34) Apr. 19; amended and passed Senate (75-19) May 15. Conference report on S. 960 filed in the House (H.Rept. 99-237) July 29; Senate agreed to conference report July 30; House agreed to conference report (262-161) July 31; signed into law (P.L. 99-83) Aug. 8, 11985.

P.L. 99-93, H.R. 2068

Foreign Relations Authorization Act, FY86 and FY87. Authorizes appropriations for the Department of State including contributions to U.N. assessed budgets. H.R. 1931 introduced Apr. 3, 1985; reported Apr. 11 (H.Rept. 99-40). H.R. 2068 introduced and favorably reported by the Committee on Foreign.Affairs; amended and passed House May 9. S. 1003 introduced and reported (S.Rept. 99-39) Apr. 25, 1986; H.R. 2068 (in lieu of S. 1003) passed Senate (80-17) June 11, 1985. Conference report (H.Rept. 99-240) filed in House July 30; Senate agreed to conference report July 31 by voice vote; House agreed to conference report (350-74) Aug. 1; signed into law (P.L. 99-93) Aug. 16, 1985.

P.L. 99-180, H.R. 2965

Department of State Appropriations Act of 1986. Appropriates funds for the Department of State for FY86 including contributions to U.N. assessed budgets. Introduced and reported by Committee on Appropriations (H.Rept. 99-197) July 11, 1985; passed House, amended, July 17 (273-136); referred to Senate Committee on Appropriations July 18; reported with amendment (S.Rept. 99-150) Oct. 4; passed Senate, amended (84-10), Nov. 1. Conference report filed in the House (H.Rept. 99-414) Dec. 4; House agreed to conference report Dec. 5; Senate agreed to conference report Dec. 6; signed into law (P.L. 99-180) Dec. 13, 1985.

P.L. 99-190, H.J.Res. 465

Continuing Appropriations, 1986. Appropriates funds for FY86 for a number of programs including U.N. voluntary programs. Introduced Nov. 21, 1985; reported by House Committee on Appropriations (H.Rept. 99-403) Nov. 21; passed House (212-208) Dec. 4; reported by Senate Committee on Appropriations (S.Rept. 99-210) Dec. 6; passed Senate Dec. 10; conference report (H.Rept. 99-450) filed in House; passed House (261-137) Dec. 19; passed Senate Dec. 19; signed into law (P.L. 99-190) Dec. 19, 1985.

H.R. 5161 (Smith)

Makes appropriations for the Departments of Commerce, Justice, and State and related agencies for FY87, including contributions to U.N. assessed budgets. Introduced July 15, 1986; reported by House Appropriations Committee (H.Rept. 99-669) July 15; passed House, amended, July 17 (269-66). Referred to Senate Committee on Appropriations July 21.

H.R. 5339 (Obey)

Makes appropriations for foreign assistance for FY87 including for U.N. voluntary programs. Reported to House by Committee on Appropriations (H.Rept. 99-747) Aug. 5, 1986.

H.J.Res. 417 (Leach)

Establishes a U.S. Commission on Improving the Effectiveness of the United Nations. Introduced Oct. 8, 1985; referred to Committee on Foreign Affairs.

Vita Bite
IB86116

MLC-034

U.S.-SOVIET RELATIONS IN A PERIOD OF SUMMITRY

...heightened danger...

The U.S.-Soviet relationship, the most complex and important of the world's bilateral relations, underwent a dramatic shift in 1985. From late 1979 through 1984 an atmosphere of crisis grew in U.S.-Soviet relations following the Soviet invasion of Afghanistan, the crisis in Poland, and the breakdown of nuclear arms control talks in Geneva in 1983.

This period, seen as a new cold war by many, reached a turning point with President Reagan's reelection, the accession of Mikhail Gorbachev in the Kremlin, the resumption of nuclear arms control talks, and the first Reagan-Gorbachev summit meeting.

Following the November 1985 summit meeting in Geneva, the leaders agreed to two future summit meetings: in the United States in 1986, and in the USSR in 1987. This decision provides a timetable and a forum for addressing the full range of issues on the agenda of U.S.-Soviet relations:

-- On nuclear as well as non-nuclear arms control there has been a good deal of progress in the past year. There are still major unresolved differences over the new U.S. strategic defense concept, formulas for balanced arms reduction, and treaty compliance and verification. But there are also reports of movement toward a possible "grand compromise."

-- The superpowers may continue to seek a mutually acceptable code of conduct, or even a modus vivendi, to mitigate conflict between them and their allies and clients, especially in the Third World.

-- The two states have agreed in principle to move forward in areas of trade, cultural exchange, and improved transportation and communication, and now these and other bilateral agreements are being implemented.

-- Soviet conduct in the area of human rights remains a major difference and a potential obstacle to improved U.S.-Soviet relations, but an improvement in the overall character of superpower relations may have a beneficial effect on the human rights situation as well.

Relations between the two superpowers bears directly on a number of issues of major interest to the Congress, such as: (a) the shaping and monitoring of U.S. foreign policy worldwide; (b) the military balance, arms control, and the defense budget; (c) East-West trade and technology transfer; and (d) human rights. All of these issues have been and will continue to be addressed by the 99th Congress.

The U.S.-Soviet military balance, perceptions of the Soviet threat, and arms control negotiations are prime determinants of U.S. defense posture and the defense budget, which received consideration in committees and on the floor of both Houses. MX has been the most contentious single defense issue in recent years. In 1985, Congress authorized a total of 50 MX missiles deployed in Minuteman silos. There was also debate over the level of funding for SDI and the overall level of defense spending.

The Congress continued its strong interest in arms control, recommending in January 1985 that the President include a bipartisan group of Senators as observers at the negotiations that opened in Geneva in March. In addition, an earlier congressional ban on testing U.S. anti-satellite weapons against targets in space was extended.

In response to President Reagan's May 27, 1986, decision to no longer be bound by the limits of the SALT treaties, the House approved H.Con.Res. 350 (June 19, 1986), "requiring the President to continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does the same." The Senate Armed Services Committee adopted similar language in Sec. 1211 of the FY87 Defense Authorization Act. Neither of these actions are binding on the President; however, H.R. 4919 (Dicks) seeks to compel continued U.S. compliance with the SALT limits by restricting budgetary authority for nuclear forces that would exceed those limits. This bill, with 164 cosponsors, was referred to the House Armed Services Committee on June 3, 1986.

Pursuant to the "Reagan Doctrine" of supporting anti-communist insurgencies against certain Soviet-backed regimes, the 99th Congress voted funds to support anti-communist forces fighting in Afghanistan, Nicaragua, Angola, and Cambodia.

In order to reduce the danger of Soviet espionage, an amendment was introduced to the State Department Appropriation Bill (H.Amend. 34) prohibiting the employment of Soviet citizens at U.S. diplomatic or consular missions in the U.S.S.R. Although the move was weakened by the Conference Committee to advise that "to the maximum extent possible," Soviet citizens not be employed, it is expected that the number of such Soviet employees will soon be cut by 50%.

Congress also held numerous hearings on the consequences of the Chernobyl nuclear accident.

In addition, Congress continued its active interest in human rights in the Soviet Union. Bills were approved proclaiming Helsinki Human Rights Day, Baltic Freedom Day, Afghanistan Day, National Andrei Sakharov Day, and solidarity with Soviet Jews. Bills were introduced to extend U.S.-sponsored broadcasting into the U.S.S.R. via Radio Liberty (H.R.423 and

S.141), and on behalf of numerous individuals and groups in the U.S.S.R. whose human rights are being violated because of their religion, nationality, political, or moral beliefs.

LEGISLATION

P.L. 99-64, S. 883
A bill extending the authority of the Export Administration Act of 1979. S. 883 introduced and passed Apr. 3, 1985. Passed House (amended) Apr. 16, 1985. House incorporated H.R. 1786 as an amendment. Compromise bill agreed upon in conference. Passed House and Senate June 27, 1985. Signed into law July 12, 1985.

P.L. 99-93, H.R. 2068
An amendment (H.Amend. 34) to the State Department Appropriation Bill stipulated that "to the maximum extent possible," Soviet citizens should not be employed at U.S. diplomatic or consular missions in the U.S.S.R. H.Amend. 34 introduced and passed House May 8, 1985. Amended in conference. Signed into law Aug. 16, 1986.

P.L. 99-190, H.J.Res. 252
A resolution banning tests of anti-satellite weapons (A-SATs) against objects in space. Incorporated into the Continuing Resolution, adopted and signed, Dec. 19, 1985. This ban will be in effect through the duration of the Continuing Resolution, until Sept. 30, 1986.

H.R. 4919 (Dicks et al.)
Limits deployment and maintenance of United States strategic nuclear weapons consistent with existing arms limitation agreements. Introduced June 3, 1986; referred to Committee on Armed Services.

H.Con.Res. 350 (Fascell et al.)
A resolution requiring the President to continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does the same. H.Con.Res. 350 passed House, amended, June 19, 1986.

S.Res. 19 (Dole)
A resolution commending the President's commitment to make nuclear arms control and reduction talks with the Soviet Union a priority goal and recommending that the President include as U.S. observers at any negotiations with the Soviets a bipartisan group of Senators. S.Res. 19 introduced and passed Jan. 3, 1985.

Stuart D. Goldman
IB83066

GOVERNMENT AND POLITICS

MLC-035

FEDERAL EMPLOYEES AND THE FY87 BUDGET PROPOSALS

...erosion of pay and benefits...

The Budget for FY87, submitted to the Congress by President Reagan on Feb. 5, 1986, proposed substantial cuts, that, if implemented in legislation, would affect Federal employees in terms of pay, retirement benefits, reductions in the Federal workforce, and health benefits. Funding for the Office of Personnel Management (OPM) would be cut and staffing for all four of the Federal personnel agencies (OPM, Merit Systems Protection Board (MSPB), Office of Special Counsel (OSC), and the Federal Labor Relations Authority (FLRA)) would be reduced.

The size and scope of the Federal personnel budgetary component can be gauged more accurately when one considers that obligations for civilian pay and benefits alone come to almost $102 billion, and outlays for uniformed military come to $73.4 billion. Together they total over $175 billion or almost 18% of the total FY87 U.S. Budget.

The President's budget proposals would limit the Federal pay increase to 3%, the smallest increase in over 40 years (except for 1966 when it was 2.9%), and make substantial changes in the Civil Service Retirement System (CSRS). These changes would result in the elimination of the FY87 cost-of-living allowance (COLA) for retirees, change the COLA computation formula (CPI minus 2), penalize early retirees, increase employee contributions to the CSRS, and change certain CSRS benefit computations to reduce entitlements. (See IB86039: Civil Service Retirement System: FY87 Budget.) Other cuts proposed by the Administration include reductions in agency personnel ceilings, and changes in the Federal Employees Health Benefits Program (FEHBP). (For further information on FEHBP, see IB83134: Federal Employees Health Benefits Program: Issues and Problems.)

Congressional Action on the FY87 Budget

Congressional action on the Administration's FY87 Budget began in the Senate, where hearings were held by the Senate Budget Committee on Feb. 5, 1986, the same day it received the President's budget.

Three weeks later, on Feb. 26, 1986, the House Post Office and Civil Service Committee adopted the recommendations of its Subcommittee on Compensation and Employee Benefits and rejected all of the Administration's proposed civil service cuts. The Committee also voted for a 5% Federal pay raise in FY87.

On March 13, the House voted 238-86 to reject the Administration's FY87 Budget, including all the Federal civil service proposals. The Senate Budget Committee, by a 16-6 vote, rejected the budget the following day.

On March 19, the Senate Budget Committee approved its First Concurrent Resolution on the Budget for FY87 (S.Con.Res. 120). The same day, the Committee approved a 3% Federal pay increase effective in January for FY87, FY88, and FY89; a retirement COLA increase in FY87, and the elimination of within-grade increases for FY87.

On May 2, the Senate, by a vote of 70-25, approved a FY87 Budget, which provided for a Federal pay increase in FY87 that would be the same as the percentage increase in the CPI (expected to be 2%), a retirement COLA increase in FY87 (expected to be 2%), eliminated the within-grade pay increases for FY87, and assumed $300 million in savings from the FEHBP.

On May 8, 1986, the House Budget Committee ordered reported the First Concurrent Budget Resolution for FY87 (H.Con.Res. 337), which contained the following civil service proposals: a 3% Federal pay raise in January, a retirement COLA increase in FY87, and within-grade increases in FY87. These provisions were approved by the full House on May 15, as part of H.Con.Res. 337.

On June 27, 1986, following conference committee action, Congress adopted its FY87 Budget (S.Con.Res. 120), which contained the following:

-- a 3% pay raise for Federal employees, effective January 1, for FY87, FY88, and FY89;

-- a retirement COLA in FY87 equivalent to the increase in the CPI;

-- approximately half of the pay increase cost to come from agency budgets;

-- a 2.5% cut in Federal agency travel expenses ($100 million savings assumption); and

-- assumes $100 million savings in the FEHB Program (unspecified reductions), each year, for FY87, FY88, and FY89.

Impact of Gramm-Rudman-Hollings (GRH) on the FY87 Budget and Federal Employee Provisions

In other related fiscal action, on Dec. 11, 1985, the President signed into law the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act (GRH), which called for a cut of $11.7 billion in FY86 spending divided equally between defense and non-exempt civilian programs. The act already has had a direct impact on the U.S. budget, notably in the areas affecting Federal employees, eliminating the FY86 Federal retirement COLA, and is expected to do likewise in FY87. In addition, following the President's Feb. 1, 1986, sequestration order, there have been substantial reductions and cutbacks affecting Federal employees, including hiring freezes, promotion freezes, field office closings, furloughs, and reduction-in-force (RIF) activity. Agencies have made substantial cutbacks in overtime, training, travel, supplies, printing, office equipment, subscriptions, and contract services, among others.

Reductions-in-force have taken place at several agencies, pursuant to GRH, occasioning some controversy. RIFs entail marked expense, involving costly payouts for leave, severance pay, withdrawals from the CSRS, and accrued unemployment compensation costs. OPM Director Constance Horner characterized RIF's as "costly and disruptive" and urged attrition as a means of meeting budget cuts.

Current estimates are that the budget deficit may exceed the $144 billion second round GRH benchmark by as much as $20 to $30 billion. If so, additional cuts or sequestrations of such amounts are implied in addition to the $36 billion in cuts already programmed. Agencies would be under markedly greater stress. Federal RIF and furlough action could reach extraordinary levels, according to some estimates. Kenneth Blalock, the head of the largest Federal employee union, predicted that up to 300,000 Federal jobs might be lost by 1991. OPM Director Constance Horner, in turn, characterized Blalock's prediction as a "gross exaggeration" that creates unnecessary fear among Federal workers.

Although the Supreme Court found the key part of the GRH law unconstitutional, Congress, on July 17, 1986, through fall-back provisions contained in the original law, reaffirmed the full package of cuts enacted earlier.

LEGISLATION

H.Con.Res. 337 (Gray)

Concurrent resolution setting forth the Congressional Budget for the United States Government for FY87, FY88, and FY89. Reported to House by Committee on the Budget (H.Rept. 99-958) May 13, 1986. Approved by House May 15, 1986. On the same day, S.Con.Res. 120 passed in lieu of H.Con.Res. 337.

S.Con.Res. 120 (Dominici)

Concurrent resolution setting forth the Congressional Budget for the United States Government for FY87, FY88, and FY89. Reported to Senate by Committee on the Budget (S.Rept. 99-264) Mar. 24, 1986. Approved by Senate May 2.

Passed House, amended, May 15. House agreed to a conference May 21. Conference report filed in disagreement in House June 26 (H.Rept. 99-664). House receded and concurred with an amendment June 26. Senate agreed to conference report and concurred in House amendment June 26. Final passage June 26, 1986.

James McGrath

MLC-036

FEDERAL MANAGEMENT IMPROVEMENT

...proposed changes in OMB...

In 1921, the Bureau of the Budget was established to provide central review and approval of executive agency budget requests and to develop a President's budget to submit to Congress. From this single function the responsibilities of the Bureau have increased over the years necessitating reorganizations in structure and philosophy. In 1939, the Bureau became part of a new, larger Executive Office of the President. Under President Nixon, in 1970, the Bureau was reorganized to become the Office of Management and Budget (OMB). This change in title was to reflect the reality that the agency now had management responsibilities equal to its budgetary responsibilities. Throughout the years, Congress has played an increasing role, both as supporter and critic, in the affairs of OMB.

Contemporary critics of OMB contend that the agency has basically failed in its effort to upgrade the managerial capacity of the agency and to provide government-wide leadership in such areas as executive branch organization, information, workforce planning, and financial systems management. There is, in their view, a mismatch between the scope of the Federal management responsibilities and the institutional resources assigned by the President and OMB to meet these responsibilities.

OMB and its defenders, on the other hand, argue that OMB does have a coherent management and philosophy and is being aggressive in promoting programs, e.g., "Reform '88" and laws, e.g., Financial Managers Integrity Act. Additionally, they are quick to point out, OMB now provides review of agency regulation proposals. All in all, the management responsibilities of OMB, in their opinion, are being performed at a high level of competency.

In the 99th Congress, the Senate Governmental Affairs Committee has held hearings and reported legislation aimed at reorganizing OMB to enable it to extend and increase its capacity to oversee the basic managerial functions of the Executive Branch. The Committee was particularly concerned with the financial aspects of Federal management.

Senator William Roth introduced S. 2230, on Mar. 26, 1986. Title I reorganizes OMB to provide, among other things, for an Executive Deputy Director, a Deputy Director for Management and Finance, and a Deputy Director for Budget in the agency. Titles II through V are designed to implement numerous recommendations of the Grace Commission, the General Accounting Office, and others, to strengthen financial controls, improve financial information and accounting, and implement certain debt and credit management practices. Title VI is concerned with improving information resources management, automatic data processing, and telecommunications management.

Hearings on the bill were held in June at which time numerous witnesses appeared in support of creating a separate Office of Federal Management on the grounds that experience has shown that even with the best intentions management concerns will inevitably be subordinated to budgetary priorities.

OMB Director, James Miller, took issue with this assertion in his testimony. He contended that the budget and management staffs ought not be separated, but continue to be integrated and that management issues were receiving the attention they deserved. The Director requested that Congress reauthorize the Office of Information and Regulatory Affairs (OIRA), a unit in OMB whose activities have prompted considerable attention within Congress.

In preparation for mark-up of S. 2230, which took place June 25, 1986, all six titles underwent considerable revision. Many of the changes were both technical and substantial to include changes in the regulatory processes to be followed by OIRA, assuming it is reauthorized. The Committee reported S. 2230, as amended, to the Senate, by a vote of 7-0.

On Aug. 12, 1986, the Administration announced that "The President's senior advisors will recommend disapproval of S. 2230 unless Title I is deleted from the bill. Title I would interfere with the President's ability to manage the Executive Branch ... Title I is flatly unacceptable."

LEGISLATION

S. 2230 (Roth)
Federal Management Reorganization and Cost Control Act of 1986. Creates a new Executive Deputy Director, a Deputy Director for Management and Finance, and a Deputy Director for Budget in OMB. Proposes changes in agency accounting and internal control systems, financial statements, cash management, and credit management systems, Federal information and regulatory policies and procedures.

Proposes numerous changes in agency financial systems. Also provides for new policies and procedures in developing and approving agency regulations. Introduced Mar. 26, 1986; referred to Committee on Governmental Affairs. Hearings held May 14. Reported, with amendments, July 31, 1986 (S.Rept. 99-347).

Ronald C. Moe

MLC-037

JUDICIAL NOMINATIONS BY PRESIDENT REAGAN DURING THE 99TH CONGRESS

...controversial nominations...

On June 16, 1986, President Reagan announced the impending retirement of Chief Justice Warren E. Burger and his intention to nominate a sitting Associate Justice, William H. Rehnquist, to take Mr.Burger's place. The President also announced that he would nominate Antonin Scalia of the United States Court of Appeals for the District of Columbia to fill the Associate Justice vacancy that would be created by Justice Rehnquist's elevation to Chief Justice.

Within a week both the Rehnquist and Scalia nominations were sent to the Senate for confirmation pursuant to the "advise and consent" clause in Article 2 of the Constitution. These events initiated a confirmation process in the Senate which, by mid-August 1986, had involved the following steps:

-- A preliminary investigation into the nominees' qualifications by the Senate Judiciary Committee lasting approximately one month (from late June to late July);

-- Hearings by the Committee on the Rehnquist nomination (July 29, 30 and 31, and August 1) and on the Scalia nomination (August 5 and 6);

-- The Committee's approval (on August 14) of the Rehnquist nomination, by a 13-5 vote, and the Scalia nomination, by a unanimous 18-0 vote.

At the start of the Senate's summer recess on August 16, floor debate by the full Senate on the Rehnquist and Scalia nominations was tentatively set to begin on the second week of September.

Of the two nominations, Justice Rehnquist's proved the more controversial. Senate Judiciary Committee members disagreed, among other things, on whether Mr. Rehnquist's political and legal philosophy made him an appropriate choice to be Chief Justice and on how much credence or importance to give to allegations of improper conduct by Mr. Rehnquist in years past.

Justice Rehnquist's critics maintained that legal opinions he had written while on the Court reflected a conservatism which was far too extreme for a Chief Justice. Particularly faulted were his opinions written as a lone dissenter in cases involving racial minorities, women's rights, abortion, freedom of speech, and separation of church and state. Opponents of his nomination expressed concern that a Rehnquist-led Court might hand down rulings abridging fundamental rights of racial minorities, women, and the disadvantaged.

Supporters of Justice Rehnquist maintained that the nominee's philosophy in no way detracted from his fitness to be Chief Justice. It was argued, for instance, that President Reagan in 1984 had campaigned for reelection promising to nominate judges reflecting his own philosophy and that his overwhelming electoral victory was a mandate to nominate "conservatives" to the Court. Justice Rehnquist also was praised as an intellectually distinguished judge and logically consistent Supreme Court dissenter opposed to judicial intervention where the Constitutional responsibility to right an alleged wrong lay not with the Court, but with Congress.

The Committee's inquiry also focused on certain episodes involving Mr. Rehnquist's conduct early in his legal career and shortly after he became an Associate Justice in 1971.

Critics cited his authorship in 1952, while a law clerk to Supreme Court Justice Robert Jackson, of a memorandum defending the "separate but equal" doctrine, upholding racial segregation, in the Supreme Court's 1896 *Plessy* v. *Ferguson* decision. Mr. Rehnquist's actions in connection with Republican Party challenges of minority voters in Phoenix, Arizona elections in the late 1950s and early 1960s also were criticized.

Justice Rehnquist was reproached by some Judiciary Committee members as well for declining to disqualify himself from voting in a 1972 Supreme Court decision, *Laird* v. *Tatum*, involving military surveillance of civilians, after he had argued publicly the year before, as a Justice Department official, that the case did not belong in the Federal courts. He was also faulted for having purchased a vacation home in Vermont in 1974 to which was attached a restrictive covenant barring Jews from being purchasers.

Committee members critical of Justice Rehnquist pointed to various of these episodes as placing a "cloud" over his nomination. A few also expressed skepticism about the veracity of his statements to the committee explaining the events in question.

In addition to testimony by Justice Rehnquist on his own behalf, several Judiciary Committee members came to his defense regarding the controversal episodes.

Supporters of Mr. Rehnquist said that the events singled out by critics had little relevance to the question of the present qualifications of the nominee to be Chief Justice. His actions as a law clerk almost 35 years ago or as a Republican poll supervisor 25 years ago were especially regarded as remote. The passage of so many years, along with the frailty of the human memory, it was argued, made some of the stronger accusations against Rehnquist as a GOP party activist particularly suspect.

Furthermore, some maintained, whatever faults were to be found with Justice Rehnquist's past views or actions, he should now be evaluated on the basis of his years of service on the Court and on his present legal competence. In this respect, they argued, Justice Rehnquist was an especially strong nominee. He had received the American Bar Association's highest rating, being assessed by the ABA as "well qualified" to be Chief Justice; he was widely recognized by critics as well as by admirers for legal brilliance; and he was enthusiastically supported by his colleagues on the Court, who were said to regard him as a consensus builder who would be an excellent Chief Justice.

During the Judiciary Committee's consideration of the Scalia nomination, the legal competence of the nominee was taken for granted at the outset, as it had been for the Rehnquist nomination. Concerns were raised, however, as to whether Judge Scalia's personal convictions, especially his opposition to abortion, would prejudice his opinions as a Supreme Court Justice. Various civil rights organizations found fault with Judge Scalia's belief in a restrictive role for the courts and with his opposition to school busing and affirmative action.

Several Committee members expressed concerns over his views on abortion and whether he intended to use his position on the Supreme Court to overturn laws he personally found offensive. Judge Scalia replied that he had "no agenda" and was "not going onto the Court with a list of things I want to do. My only agenda is to be a good judge." He added that he would remove himself from a case if he believed he could not make "an impartial judgment of the Constitution."

Supporters praised Judge Scalia's legal background as a sure indicator of future distinction on the Supreme Court. (He had been head of the the Justice Department's Office of Legal Counsel in the Ford Administration, next a University of Chicago law professor, and then an American Enterprise Institute scholar before becoming an appellate judge.) The Supreme Court, it was noted, had upheld six of the seven decisions it had reviewed that were written by Judge Scalia on the circuit court.

Other Committee members who indicated personal disagreement with Judge Scalia on various issues stated that they did not find his views so extreme as to disqualify him from the Court.

Denis Steven Rutkus
IB86100

MLC-038

PRESIDENTIAL VETOES AND RONALD REAGAN'S USE OF THE PROCESS IN HIS SECOND TERM

...six vetoes during the 99th Congress...

President Reagan has vetoed a total of 47 bills since he assumed office -- 15 bills during the 97th Congress, 24 more during the 98th Congress (see archived IB81174), and four bills, to date, during the 99th Congress (see IB85093).

President Reagan's first rejection of legislation passed by the 99th Congress came on Mar. 3, 1985, when he returned without his signature, H.R. 1096. This bill authorized emergency famine relief in Africa and provided domestically additional farm credit assistance. The assistance to farmers provided in this bill increased by 1.8 billion the amount of Federal monies provided by the Federal farm loan guarantee program. It would have also spent $100 million to reduce interest rates on private farm loans guaranteed by the Federal farm program, revised some eligibility rules for these loan guarantees, and allowed farmers to get early advances on crop loans that they normally would not be eligible to receive until later in the fall of 1985.

President Reagan objected only to those sections of H.R. 1096 providing additional financial support to domestic farmers. The President described the farm sections of the bill as a "massive new bailout that would add billions to the deficit." The President was not opposed to those portions of this legislation relating to African famine relief. No Congressional override was attempted.

The President's second veto occurred on Nov. 8, 1985. The legislation vetoed by the President was H.R. 2409, a bill to amend the Public Health Service Act and to revise and extend programs for the National Institutes of Health, medical research, health planning and promotion, and for other purposes. The President vetoed this legislation because he thought it imposed too many restrictions and program requirements on biomedical research programs, established "unneeded" organizations, and imposed uniform guidelines on all research institutes, thus diminishing their administrative flexibility. The House overrode the President's veto (380-32) Nov. 12, 1985. The Senate overrode the veto (89-7) Nov. 20, 1985. The bill passed over the President's objections and became P.L. 99-158.

The third veto of the 99th Congress occurred on Nov. 15, 1985, when the President returned to Congress H.R. 3036. This bill provided appropriations for the Department of the Treasury, the United States Postal Service, the Executive Office of the President and for certain independent agencies for FY86.

The President rejected this bill because it exceeded the Administration's proposed overall spending level by $900 million. Most of this amount would have provided a postal subsidy opposed by the President. No override attempt occurred.

President Reagan's fourth veto of the 99th Congress took place on Dec. 17, 1985. The vetoed bill was H.R. 1562, the Textile and Apparel Trade Enforcement Act of 1985. This legislation would have limited imports of textiles and textile products into the United States and would have provided for annual adjustments to the growth of such imports. In addition, it instructed the Secretary of Commerce to establish an imports licensing system for such imports.

The bill was vetoed because, in the President's opinion, it would "invite immediate (trade) retaliation against our exports resulting in a loss of American jobs in other (manufacturing) areas." The House attempted to override the President's veto on Aug. 6, 1986, but failed by a vote of 276-149.

The President's fifth veto was of H.R. 1404, a bill to establish the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Service Training Center at Cape Charles, Virginia.

The President did not object to the section of the bill that statutorily recognized a protective refuge at Cape Charles. What he did object to was the establishment of a new training facility when others, federally and privately sponsored, were already in operation elsewhere. Additional Federal expenditures for this new center were, in the President's opinion, unwarranted.

H.R. 3384, vetoed on Jan. 17, 1986, was President Reagan's sixth veto of this Congress. H.R. 3384, the Federal Employees Health Benefits Improvement Act of 1985, would have increased the maximum Government contribution for an enrollee in the Federal Employee Health Benefit Plan from 75% to 100% of the subscription charge and it would also allow for changes in the Law to allow rebates to Federal annuitants. The President's veto was prompted by two sections of this bill. First, he disapproved of the increased Federal contribution to the health plan and second, he opposed payments to a nurse or nurse-midwife without the consent and referral of another health practitioner. The President, in his veto message to Congress, stated his approval of the legislation providing these objectionable sections were removed. Congress did not attempt to override this veto.

President Reagan's seventh veto occurred on Feb. 18, 1986. The bill vetoed was H.R. 2466, making miscellaneous changes in laws affecting the United States Coast Guard and for other purposes. It was vetoed by President Reagan because it "creates significant new impediments (to executive branch administration) and contains unwarranted private relief provisions that would set highly undesirable precedents." Congress has made no attempt to override this veto.

The most recent veto of the 99th Congress and President Reagan's eighth, was of S.J.Res. 316, vetoed on May 21, 1986. This bill, entitled A Bill Prohibiting the Sale to Saudi Arabia of Certain Defense Articles and Related Defense Services, was vetoed by the President because this legislation "would send the worst possible message as to America's dependability and courage." The President further stated that the bill would "damage our vital strategic, political and economic interests in the middle east." On June 6, 1986, the Senate attempted to override the President's veto but failed (66-34).

Gary L. Galemore
IB85093

MLC-039

SENATE PROCEDURE AND ORGANIZATION: PROPOSALS FOR CHANGE IN THE 99TH CONGRESS

...Senate T.V. Permanent ...

On July 29, 1986, the Senate voted (78 yeas to 21 nays) to make permanent live, gavel-to-gavel radio and television broadcast of its floor proceedings. Earlier, on Feb. 27, 1986, the Senate had agreed to S.Res. 28, which authorized live broadcast of its floor proceedings on a trial basis. Television broadcasting began May 1 on an in-house basis and became public on June 2 for a trial period which ended on July 15. Live, gavel-to-gavel radio broadcast to the public began on March 12.

The Committee on Rules and Administration held hearings on July 16, 24, and 25, on the question of permanent television coverage, reviewing evaluations of the television test period received from individual Senators, the Architect of the Capitol, the Secretary of the Senate, and the Sergeant at Arms. On July 16, the Committee reported a resolution (see S.Res. 447) prohibiting the use of videotapes of Senate floor proceedings for political or commercial purposes. S.Res. 447 is awaiting floor action.

In addition to the authorization of television and radio coverage of Senate floor proceedings, the most notable change adopted in S.Res. 28 was a reduction in the debate time permitted in the post-cloture period, from the current 100 hours to 30 hours. Other rules changes included: (1) a reduction in the current requirement that committee reports be available to Senators 3 days before floor consideration is in order to 2 days; (2) the elimination of the Committee of the whole procedure for the consideration of treaties in Executive Session; (3) a requirement that copies of conference reports be available on each Senator's desk before floor consideration is in order; and (4) the establishment of a non-debatable motion to waive the reading of the Journal. Pursuant to a provision of S.Res. 28, these rules changes became permanent on July 29 when the Senate voted to continue live television and radio coverage of its proceedings.

Prior to the adoption of S.Res. 28, no regular public broadcast of the Senate's floor proceedings, television or radio, existed. The Senate had, however, permitted television and radio coverage of its committee meetings. The House of Representatives has televised its floor proceedings since 1979. Proposals for televising floor proceedings of the Senate date from the 1940s; since 1981 and through the final session of the 98th Congress in 1984, this issue was debated at length on the floor and in the Committee on Rules and Administration. (For additional historical and background information, see Issue Brief 85028, Senate Procedure and Organization.)

LEGISLATION

S.Res. 28 (Byrd)

Submitted Jan. 3, 1985; referred to Committee on Rules and Administration. Reported Nov. 19, 1985 (S.Rept. 99-190). Senate began floor consideration of S.Res. 28 on Feb. 3. The Senate agreed, with amendments, to S.Res. 28 on Feb. 27, 1986, by a vote of 67-21.

S.Res. 447 (Mathias)

Prohibits use of videotapes of Senate floor proceedings for political or commercial purposes. Reported July 16, 1986, by Committee on Rules and Administration as an original measure. Pending on Senate Legislative Calendar.

Ilona Nickels

HEALTH

MLC-040

BIOMEDICAL RESEARCH: NATIONAL INSTITUTES OF HEALTH

...reauthorization passed, large increases in appropriations pending...

The National Institutes of Health (NIH) is the principal medical research arm of the Federal Government. Its programs support basic and applied scientific inquiry on all phases of human diseases and disabilities, as well as investigations into fundamental biological processes and the biological effects of the environment. In addition, NIH sponsors training and career development of researchers, evaluation and dissemination of health information, construction of cancer research facilities, and improvements in computer and information science for biomedicine.

The 99th Congress has passed legislation reauthorizing several NIH programs through 1988, creating a new Institute and a new research center, and making numerous adjustments in other NIH functions.

In 1985, legislation was passed which revised the statutory authority of NIH. Previously, the agency as a whole operated under the authority of section 301 of the Public Health Service Act (PHSA), which gives the Secretary of the Department of Health and Human Services broad permanent authority to conduct and promote research on diseases. In addition, several Institutes and programs within NIH were specifically authorized under Title IV of the PHSA and required periodic reauthorization by Congress.

The authorization of appropriations for the National Cancer Institute (NCI), the National Heart, Lung, and Blood Institute (NHLBI), and the Medical Library Assistance program of the National Library of Medicine (NLM) expired at the end of FY82. Authorizations for several additional NIH programs expired at the end of FY83, including selected arthritis, diabetes, and digestive diseases activities of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK) and the National Research Service Awards (training grant) program. Congress could not agree on reauthorizing legislation in 1982 and 1983, but appropriations for the unauthorized programs were provided by the continuing resolutions for FY83 and FY84. For FY85, the programs were all covered under the regular appropriations Act for the Departments of Labor, Health and Human Services, Education, and related agencies (P.L. 98-619), even though they remained without specific authorization statutes.

The 98th Congress passed a reauthorization measure in October 1984, but it was pocket vetoed by the President. That bill (S. 540) represented major compromises between supporters of two earlier bills, H.R. 2350 and S. 773, that differed greatly in the extent of organizational change proposed for NIH. In addition to reauthorizations, S. 540 contained provisions establishing two new institutes at NIH, one for arthritis, musculoskeletal, and skin diseases and one for nursing. It also made adjustments in NIH's statutory authority and specified activities in a number of research areas. The President objected to the new organizational entities as unnecessary and expensive, and also criticized the bill's new requirements for the management of research.

In the 99th Congress, bills very similar to S. 540 were reintroduced and passed by the respective Chambers. The House bill (H.R. 2409) was nearly identical to the vetoed bill, while the Senate bill dropped the proposed National Institute of Nursing and incorporated several minor modifications or deletions to respond to some of the Administration's objections to S. 540. Conferees agreed on a compromise version, but the measure was again vetoed by the President. Congress, however, overrode the veto, and the Health Research Extension Act of 1985 became law (P.L. 99-158). It revised the description of NIH in Title IV of the PHSA and authorized appropriations through FY88 for NCI, NHLBI, the library program, and the NRSA training grants. It created a new National Institute of Arthritis and Musculoskeletal and Skin Diseases and a new National Center for Nursing Research, and had specific provisions regarding a number of research areas.

For FY86, Congress appropriated nearly $5.5 billion for NIH programs, an increase of 6.7% over the FY85 level of $5.15 billion. Under the Gramm-Rudman-Hollings deficit reduction procedures, 4.3% of these funds were sequestered, leaving NIH with nearly $5.3 billion available for obligation in FY86. The President's FY87 budget request, at approximately $5.1 billion, sought to restrain the growth in biomedical research funding by reducing the number of competing research grants awarded. A proposed rescission of FY86 grant money was not accepted by Congress. The requested funding level for FY87 assumed a further decrease in the number of new grants, plus savings in the average costs of grants and in indirect cost reimbursements.

Congressional action on the FY87 NIH appropriation has largely rejected the Administration's proposed restraints. The bill, H.R. 5233, passed the House with a funding level of $6.15 billion, and was reported to the Senate at a level of $6.08 billion. These amounts represent increases of over 15%, and the committee reports specify support of many more grants than the Administration had contemplated. Should a Gramm-Rudman sequestration be imposed during FY87, of course, NIH would expect to lose some portion of its available funds again. [For further details on the budget, see the NIH section in IB86062, Research and Development Funding: FY86 and FY87.]

LEGISLATION

P.L. 99-158, H.R. 2409

Health Research Extension Act of 1985. Reauthorizes selected programs of the National Institutes of Health through FY88. Creates a new National Institute of Arthritis and Musculoskeletal and Skin Diseases and a new National Center for Nursing Research. Makes numerous adjustments and additions to other NIH activities. Introduced as a clean bill after markup and approval by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, May 7, 1985. Marked up by full committee, May 15. Reported, amended, June 4 (H.Rept. 99-158). Passed House under suspension of rules by voice vote, June 17. Measure laid before Senate by unanimous consent, July 19. Senate struck all after the Enacting Clause and substituted the language of S. 1309 as amended. Passed Senate in lieu of S. 1309 with an amendment by voice vote, July 19, 1985. Conference reports filed in House (H.Rept. 99-309) and in Senate (S.Rept. 99-157) Oct. 11. Senate agreed to conference report Oct. 18; House agreed Oct. 23. Measure vetoed by the President Nov. 8. House overrode veto Nov. 12. Senate overrode veto Nov. 20. Measure became law Nov. 20, 1985.

H.R. 5233

Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1987. Reported by House Committee on Appropriations (H.Rept. 99-711) July 24, 1986. Passed House, amended, July 31. Reported, with amendments, by Senate Committee on Appropriations (S.Rept. 99-408) Aug. 15, 1986.

Pamela W. Smith

MLC-041

HEALTH SERVICES AND RESOURCES PROGRAMS: FY87 BUDGET

...FY87 appropriations proposal being considered...

Health services programs include those which provide a variety of personal health services to population groups or areas with special health care needs, as well as those intended to prevent and control diseases. The majority of these programs are contained in four health block grants: Maternal and Child Health; Alcohol, Drug Abuse, and Mental Health; Preventive Health; and Primary Care. Health resources programs provide support for health professions training, development assistance for Health Maintenance Organizations (HMOs) and support for the health planning activities of State and local health planning agencies.

The President's FY87 budget proposal would freeze funding levels for certain health services and resources programs and end funding for others. Health block grants, for example, would have their funding levels frozen at FY86 levels. The President's budget would end funding for health professions education and nurse training programs. In the aggregate, the FY87 budget proposes $1.87 billion for health services and resources programs.

On June 26, 1986, the House and Senate approved S.Con.Res. 120, the First Concurrent Resolution on the Budget for FY87. The agreement, in general, assumes FY86 funding levels for health services and resources programs, with increased funding for certain low-income high-priority programs. On July 31, 1986, the House passed H.R. 5233, the Departments of Labor, Health and Human Services, and Education appropriation bill for FY87. This bill was reported by the Senate Committee on Appropriations Aug. 15, 1986.

The first session of the 99th Congress considered legislation to revise and extend programs for health professions education, nurse training, the National Health Service Corps, community health centers, and HMOs. Congress passed and the President signed into law legislation to reauthorize health professions and nurse training programs. Other legislation to revise and extend health services and resources programs continues to be considered in the second half of the 99th Congress.

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), most programs within the Health Services and Resources Administration, including the health block grants, are subject to the uniform percentage sequestrations applied to the non-defense portion of the Federal budget. Certain programs, however, are treated under special rules. Specifically, community health centers, migrant health center, and Indian health services and facilities are limited to a maximum percentage reduction of 1% in FY86 and 2% in all subsequent years.

LEGISLATION

P.L. 99-92, H.R. 2370
Nurse Education Amendments of 1985. Revises and extends nurse education programs for three fiscal years. H.R. 2370 passed the House July 15, 1985; passed the Senate July 22. House agreed to Senate amendments July 31, 1985. Signed into law Aug. 16, 1985.

P.L. 99-129, H.R. 2410
Health Professions Educational Assistance Amendments. Revises and extends health professions education programs. H.R. 2410 passed House July 15, 1985; passed Senate July 19, 1985. Signed into law Oct. 22, 1985.

P.L. 99-280, S. 1282
Health Services Amendments Act of 1986. Revises and extends the community and migrant health centers programs for two fiscal years and repeals the Primary Care Block Grant authority. H.R. 2418 introduced May 8, 1985; reported by Committee on Energy and Commerce (H.Rept. 99-157) June 4, 1985). S. 1282 introduced June 12, 1985; reported by Senate Committee on Labor and Human Resources (S.Rept. 99-107) July 15, 1985. S. 1282 passed Senate July 15, 1985. H.R. 2418 passed House Mar. 5, 1986. Signed into law Apr. 24, 1986.

H.R. 2237 (Richardson)
Revises and extends the National Health Service Corps for 3 years. Introduced Apr. 25; referred to Committee on Energy and Commerce. Reported (H.Rept. 99-144) May 23, 1985.

H.R. 2369 (Waxman)
Revises and extends the family planning program for three fiscal years. Introduced May 6, 1985; referred to Committee on Energy and Commerce. Reported (H.Rept. 99-159) June 4, 1985.

H.R. 2417 (Waxman)
Health Maintenance Organizations Act of 1985. Revises and extends the HMO program. Introduced May 8, 1985; referred to Committee on Energy and Commerce. Reported (H.Rept. 99-154) June 3, 1985. Passed House June 18, 1985.

H.R. 3010 (Waxman)
Revises and extends the health planning authority for one year. Introduced July 16, 1985; referred to Committee on Energy and Commerce. Ordered reported (H.Rept. 99-464) Nov. 4, 1985. Passed House, amended, Feb. 4, 1986.

S. 881 (Kennedy)
Family Planning Amendments of 1986. Revises and extends the family planning program (Title X of the Public Health Service Act) for four fiscal years. Introduced Apr. 3, 1985; referred to Committee on Labor and Human Reosources. Reported (S.Rept. 99-297) Dec. 11, 1985.

S. 1285 (Hatch)
Revises and extends the National Health Services Corps program for 3 years. Introduced June 12, 1985; referred to Committee on Labor and Human Resources. Reported (S.Rept. 99-107) July 15. Passed Senate July 19, 1985.

S. 1762 (Hatch)
Revises and extends the HMO program. Introduced Oct. 10, 1985; referred to Committee on Labor and Human Resources. Reported (S.Rept. 99-229) Jan. 22, 1986.

S. 1855 (Quayle)
Health Planning and Resource Allocation Act of 1986. Amends Title XV (health planning program) to provide for a 3-year program of health planning grants for States that to participate. Introduced Nov. 18, 1985; referred to Committee on Labor and Human Resources. Reported (S.Rept. 99-224) Dec. 18, 1985.

[See CRS Issue Brief 85046.]

Richard J. Price

MLC-042

MEDICAID

...Federal-State health program for the poor...

Medicaid is a federally aided, State-operated and administered program of medical assistance for 22.9 million low-income persons. States establish, subject to Federal guidelines, eligibility requirements and scope of benefits. In FY85, Federal program expenditures were $22.7 billion and State expenditures were $18.5

billion for a total of $41.2 billion. Federal current law outlays are estimated at $24.7 billion in FY86 and $26.1 billion in FY87.

PRESIDENT'S FY87 BUDGET

The President's FY87 budget includes outlines of legislative and regulatory proposals designed to achieve a reduction of $1.4 billion in Federal Medicaid outlays in FY87. Federal savings would be achieved primarily through a proposed limitation on Federal medical assistance payments. These estimates were made prior to the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (known as COBRA) on Apr. 7, 1986.

COBRA

On Apr. 7, 1986, the President signed into law (P.L. 99-272) the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). This legislation represented the culmination of legislative activity on the FY86 budget for Medicaid and certain other programs.

COBRA extends mandatory Medicaid coverage to pregnant women in two-parent families. It expands the services available under a home- and community-based services waiver and permits States to offer hospice services as an optional benefit. The law also enhances third-party liability collections.

CONCURRENT RESOLUTION ON THE FY87 BUDGET

On June 26, 1986, the Senate and House agreed to the conference report on S.Con.Res. 120, the FY87-89 Concurrent Resolution on the Budget. This resolution assumes increases in Medicaid outlays of $108 million in FY87, $257 million in FY88, and $315 million in FY89, for a 3-year total of $680 million. The estimate assumes expanded coverage for poor pregnant women, infants, and the elderly. It also assumes that States will be held harmless against any adverse impact in FY87 from the change from a biennial to annual calculation of the Federal Medicaid matching rate. Further, the estimate assumes no administrative savings in the Medicaid program.

The Medicaid cost increases are in addition to the net costs attributable to COBRA and other administrative actions, which yield a grand total from the February baseline numbers of $167 million, $316 million, and $384 million. (The February baseline numbers were $26,036 million in FY87, $27,793 million in FY88, and $29,581 in FY89).

On July 23, 1986, the House Committee on Energy and Commerce passed its reconciliation package, which was subsequently incorporated in H.R. 5300 as reported by the House Budget Committee on July 31, 1986. The CBO estimated increases in Medicaid outlays attributable to the provisions of $110 million in FY86, $245 million in FY87, and $325 in FY88, for a 3-year total of $680 million.

On July 23, 1986, the Senate Finance Committee completed action on budget reconciliation. The Committee recommendations were included in the Sixth Omnibus Budget Reconciliation Act, 1986 (S. 2706), as reported by the Committee on the Budget on July 30, 1986. The CBO has estimated additional outlays attributable to the Medicaid provisions of $121 million in FY87, $259 million in FY88, and $354 million in FY88, for a 3-year total of $734 million.

GRAMM-RUDMAN-HOLLINGS

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), Federal Medcaid matching grants to the States -- both for program benefits and State administrative expenses -- are exempt from sequestrations. Federal Medicaid administrative expenses, however, are fully sequesterable, subject to the uniform reduction percentages for non-defense programs. community-based waiver provisions.

LEGISLATION

P.L. 99-272, H.R. 3128

Consolidated Omnibus Budget Reconciliation Act of 1985. Includes Medicaid provisions. Extends mandatory Medicaid coverage to poor pregnant women in two-parent families. Expands services avaiable under home and community-based services waivers. Authorizes coverage of hospice services as an optional beneift. Provides for enhanced third-party liability collections. Medicaid provisions originally contained in H.R. 3101, reported by House Energy and Commerce Committee Aug. 1, 1985. H.R. 3290, incorporating both the provisions of H.R. 3101 and H.R. 3128, introduced Sept. 12. Provisions of H.R. 3290 incorporated in H.R. 3128, which passed House Oct. 31. S. 1730 reported by Senate Budget Committee Oct. 2. On Nov. 14, the Senate amended and passed H.R. 3128 by substituting the text of S. 1730 for the House-passed provisions. Reported by Conference Committee Dec. 18, 1985, to which Senage agreed. House rejected the conference report, receded from its amendment and concurred in Senate amendment with an amendment, returning it to Senate. Senate concurred in House amendment with an amendment in the nature of the substitute, sending it back to House. House disagreed to Senate amendment to House amendment to Senate amendment. On Dec. 20, 1985, Senate insisted on its amendment and requested conference with House. House concurred Mar. 6, 1986, with amendments, returning measure to Senate. On Mar. 14, 1986, Senate concurred with amendment, returning measure to House. On Mar. 18, House disagreed to Senate amendment. Subsequently, on Mar. 18, Senate insisted on its amendment. On Mar. 20, House receded from its disagreement. Measure signed into law Apr. 7, 1986.

H.R. 5300 (Gray)
Omnibus Budget Reconciliation Act of 1986. Energy and Commerce Committee portion includes a number of Medicaid provisions, including those which: give States the option of expanding coverage for pregnant women and infants with incomes below the Federal poverty line; give States the option of expanding Medicaid coverage for all Medicaid services or just Medicare cost-sharing requirements for the elderly and disabled with incomes below the Federal poverty line; hold States harmless in FY87 from the change from the biennial to annual calculation of the Federal Medical Assistance percentage; and clarify coverage policies with regard to aliens and the homeless. Introduced July 31, 1986; referred to Committee on the Budget. Reported to House (H.Rept. 99-727) July 31.

S. 2706 (Domenici)
Sixth Omnibus Budget Reconciliation Act, 1986. Finance Committee portion contains a number of Medicaid provisions including those which: give States the option of expanding coverage for pregnant women and infants (with an optional phase-in of children under age 5) with incomes below the Federal poverty line; give States the option of expanding Medicaid coverage for all Medicaid services or just Medicare cost-sharing requirements for the elderly and disabled with incomes below the Federal poverty line; and hold States harmless in FY87 from the change from the biennial to annual calculation fo the Federal Medical Assistance percentage. Introduced July 31, 1986; referred to Committee on the Budget. Reported to Senate (S.Rept. 99-348) July 31.

Jennifer O'Sullivan

MLC-043

MEDICARE

...largest health care financing program in the nation...

Medicare is a nationwide health insurance program for 29 million aged and 3 million disabled individuals. Medicare is the largest health care financing program in the United States and, except for Social Security, is the largest entitlement program in the Federal budget. Current law outlays are estimated at $71.4 billion in FY85, $75.3 billion in FY86, and $84.6 billion in FY87. The Medicare program consists of two parts: Hospital Insurance (Part A) which helps pay for inpatient hospital services, skilled nursing facility services, home health services, and hospice care; and Supplementary Insurance (Part B) which helps pay for physician services, outpatient hospital services, laboratory services, and other medical and related services.

PRESIDENT'S FY87 BUDGET

The Administration's FY87 budget includes legislative and regulatory initiatives designed to achieve a reduction in Medicare program outlays of $140 million in FY86 and $4,015 billion in FY87. An additional legislative proposal was designed to increase income to the Medicare Part B Trust Fund by $725 million in FY87. It should be noted that these estimates were made prior to the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (known as COBRA) on Apr. 7, 1986. The Administration's Medicare budget initiatives reflect the overall theme of the FY87 budget which is to constrain Government spending in order to reduce the Federal deficit. Savings in the Medicare program are to be achieved primarily through revisions to individual elements of the hospital payment system.

COBRA

On Apr. 7, 1986, the President signed into law (P.L. 99-272), the Consolidated Omnibus Budget Reconciliation Act of 1985. This measure represented the culmination of legislative activity on the President's FY86 budget for Medicare and certain other programs. COBRA did not receive final approval in both Houses during the first session of the 99th Congress. The issues in controversy focused on non-Medicare provisions. While Congress was considering the reconciliation legislation, it approved a number of temporary extensions (P.L. 99-107, as amended), which extended through Mar. 14, 1986, the hospital and physician payment requirements in effect on Sept. 30, 1985.

COBRA includes a number of provisions affecting hospital reimbursement, including those which limit the hospital rate of increase, establish an adjustment for hospitals serving a disproportionate share of low-income persons, modify the indirect teaching adjustment, delay the transition to national rates, and modify payments for direct medical education. The measure also includes provisions which extend the fee freeze for nonparticipating physicians, extend the temporary provision of law under Part B under which enrollee premiums are to produce premium income equal to 25% of program costs, place a limit on regional fee schedule rates for clinical laboratory employees, and provide for a study of physician payments.

CONCURRENT RESOLUTION ON THE BUDGET

On June 26, 1986, the Senate and House agreed to the conference report on S.Con.Res. 120, the FY87-89 Concurrent Resolution on the Budget. This resolution assumes Medicare outlay savings of $550 million in FY87, $1.2 billion in FY88, and $1.5 billion in FY89, for a 3-year total of $3.2 billion. The outlay reductions are to be achieved through reforms in provider payments. The conference agreement also assumes an addition of $250 million in FY87 and $1.0 billion in FY87-89 to limit future increases in the hospital deductible.

The Medicare savings are in addition to the savings attributable to COBRA and administrative actions, which yield a grand total from the February baseline numbers of $2,002 million in FY87, $3,195 million in FY88, and $3,872 million in FY89. (The baseline numbers were $75,252 million in FY87, $84,645 million in FY88, and $94,772 million in FY89.

On July 23, 1986, the House Committee on Energy and Commerce passed its reconciliation package, which was also incorporated into H.R. 5300. The CBO estimated the total savings attributed to the Energy and Commerce Committee's Medicare provisions at $206 million in FY87, $401 in FY88, and $476 in FY89, for a 3-year total of $1,083 million.

On July 25, 1985, the chairman of the Ways and means Committee announced that the Committee had agreed to spending and revenue provisions related to the requirements of the House-passed budget resolution. The Committee recommendations were included in the Omnibus Budget Reconciliation Act of 1986 (H.R. 5300), as reported by the House Budget Committee on July 31, 1986. CBO estimated the total outlay savings attributable to the Committee's Medicare provisions at $1,708 million in FY87, $525 million in FY88, and $2,122 million in FY89, for a 3-year total of $4,355 million.

The Senate Finance Committee also completed action on budget reconciliation on July 23, 1986. The Committee recommendations were included in the Sixth Omnibus Budget Reconciliation Act, 1986 (S. 2706) as reported by the Committee on the Budget on July 30, 1986. The CBO has estimated outlay savings attributable to the Medicare provisions at $2,369 million in FY87, $619 million in FY88, and $956 million in FY89, for a 3-year total of $3,944 million. Additional Medicare expenditures attributable to the revenue provision are zero in FY87, $2 million in FY88, and $6 million in FY89, for a 3-year total of $8 million.

GRAMM-RUDMAN-HOLLINGS

Under the special rule for sequestrations of Medicare benefits in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), Medicare outlays for covered services would be reduced by a maximum of 1% for FY86 and 2% for each later year in which there is sequestration. According to P.L. 99-177, however, Medicare administration expenses are fully sequesterable and are subject to the uniform reduction percentages for non-defense programs.

LEGISLATION

P.L. 99-107, H.R. 3452
Emergency Extension Act of 1985. As amended by P.L. 99-181, P.L. 99-189, and P.L. 99-201, extends through Mar. 14, 1986, temporary payment provisions for hospitals and physicians. Signed into law Sept. 30, 1985.

P.L. 99-272, H.R. 3128
Consolidated Omnibus Budget Reconciliation Act of 1985. Among other things, includes a number of provisions affecting hospital reimbursement including those which limit the hospital rate of increase, establish a disproportionate share adjustment, modify the indirect teaching adjustment, delay the transition to national rates, and modify payments for direct medical education. The measure also includes provisions that extend the fee freeze for nonparticipating physicians; extend the temporary provision of law under Part B under which enrollee premiums are to produce premium income equal to 25% of program costs; place a limit on regional fee schedule rates for clinical laboratory services; mandate Medicare coverage for newly hired State and local employees; and provide for a study of physician payments. Measure signed into law Apr. 7, 1986.

H.R. 5300 (Gray)
Omnibus Budget Reconciliation Act of 1986. Ways and Means Committee portion contains a number of Medicare provisions, including those which: specify a rate of increase in prospective payment rates for FY87; cap the increase in aggregate capital expenditures for inpatient hospital services; require prompt payment of provider claims; limit the Part A deductible to $500 in 1987; specify a number of requirements to ensure the protection of quality of patient services; and extend and modify limits on physician fee increases. Energy and Commerce Committee portion contains a number of Medicare provisions including those which: modify payments for graduate medical education; authorize payments for services of physicians assistants; authorize direct reimbursement for services of certified registered nurse anethsthetists; modify payments for physicians' services; limit payment for cataract surgery involving a lens implant; and expand beneficiary appeal rights under the Part B program. Introduced July 31, 1986; referred to Committee on the Budget. Reported to House (H.Rept. 99-727) July 31.

S. 2706 (Domenici)
Sixth Omnibus Budget Reconciliation Act, 1986. Finance Committee portion contains a number of Medicare provisions including those which: modify hospital payments; limit reimbursement for capital costs; extend the secondary payer provision to the disabled; modify physician payments; extend the prospective payment approach to hospital outpatient surgery; require prompt payment of claims; set the Medicare hospital deductible at $520 in 1987 and modify the calculation for future years; and institute quality of care reforms. Introduced July 31, 1986; referred to Committee on the Budget. Reported to Senate (S.Rept. 99-348) July 31.

[See CRS Issue Brief 86045.]

Jennifer O'Sullivan

MLC-044

MEDICARE HOSPITAL INSURANCE: THE FINANCING PROBLEM

...expected future deficits reduced but not eliminated...

The Hospital Insurance (HI) portion of the Medicare program, which provides protection against certain health care expenses for almost 30 million Americans, accounts for nearly two-thirds of annual program expenditures. The principles employed in financing the Hospital Insurance program are similar to those employed by the Social Security cash benefit programs. Benefit outlays and administrative expenses are expected to be sustained, over the long run, by the payroll taxes paid by those currently working and their employers (and the self-employed) into a Hospital Insurance Trust Fund. However, since its inception in 1965, annual projections of the financial condition of the HI program have shown funding deficits for future years. In the last 5 years, Congress has passed legislation to help reduce projected long-range deficits in the HI program. While these efforts have resulted in important improvements in program financing, they have not been sufficient to show long-run (25-year) actuarial balance in the program.

Like previous reports, the 1986 report of the trustees of the Hospital Insurance Trust Fund projects a continued actuarial deficit in the program's financing over the 25-year period from 1986 to 2010. According to intermediate assumptions used in this report, the HI Trust Fund would be depleted in 1996. Although this is more optimistic than the 1984 report which projected trust fund depletion in 1991, it is less optimistic than the 1985 report which projected depletion in 1998. The projections included in the 1986 report have been revised recently to reflect the impact of certain provisions of COBRA (P.L. 99-272). These newer projections suggest that the trust fund may be depleted in 1998. This improvement resulted primarily from lower increases in Medicare payment rates to hospitals. The revised estimates project a buildup in the trust fund through 1992. For every year after that, program expenditures are projected to exceed revenues, with resulting declines in the trust fund balances. Thus, unless further steps are taken to increase program revenues or reduce expenditures (or some combination thereof), the HI Trust Fund could be exhausted by 1998.

Congress has dealt with the financing problems of the Hospital Insurance program over the years both by raising revenues and by reducing program expenditures. Historically, most steps to raise revenue have involved either increases in and acceleration of scheduled Hospital Insurance tax rates or increases in the maximum amount of taxable earnings. For example, in 1983 Congress doubled the tax rate on earnings in self-employment. In addition, in 1982 and 1983, Congress broadened the earnings base that is subject to such taxation (i.e., by extending HI coverage to employment with the Federal Government and to employment with a non-profit organization).

Legislative attempts to reduce program expenditures have taken various approaches, including changes in reimbursement policies or procedures that have reduced the level of payments under Hospital Insurance to the providers of covered services, and changes in the program's benefit design that have shifted the obligations of the HI program for certain expenses to other sources of payment (e.g., to workers compensation programs, automobile insurance contracts, and employer-based health benefit plans).

Additional proposals were considered by the quadrennial Advisory Council on Social Security, which was appointed by the Secretary of Health and Human Services to examine the problem of Medicare financing. The Advisory Council issued its final report on Feb. 21, 1984. This report includes 27 policy recommendations, with an estimated cumulative impact on the HI program of more than $180 billion in deficit reductions over the period 1985 to 1995. Nearly five-sixths of the estimated effect is due to expenditure reductions anticipated as a result of certain proposed changes in the Medicare hospital prospective payment system and proposed delays in the age of entitlement to HI benefits. Most of the remaining effect is expected in the form of revenue increases anticipated from introduction of an optional beneficiary premium designed to cover the cost of benefit enhancements included in a proposal to restructure HI benefits.

Hearings on the Advisory Council's report were held by the Subcommittee on Health of the House Committee on Ways and Means on Mar. 30, 1984, and by the Senate Committee on Finance on Apr. 9, 1984. Further hearings on the Medicare financing crisis were held by the Subcommittee on Health of the House Committee on Ways and Means Sept. 13, 1984.

The trends reflected in the last two trustees reports, showing a stable or improved short-run outlook for the HI trust fund, effectively shifted the focus of Medicare debate. Concern over Medicare financing now centers on the effects of program outlays on overall budget deficits rather than on trust fund adequacy. However, a direct relationship exists between program outlays and trust fund balances. Program changes that reduce expenditures also increase trust fund balances and push farther into the future the year for projected trust fund depletion. Thus, legislation that increases program revenues or reduces expenditures also helps to reduce or defer the projected trust fund deficit as well.

Although short run changes in program financing designed to reduce the overall budget deficit are helpful, the size of the projected long-term trust fund deficit has changed relatively little over the last few years. As the trustees have pointed out repeatedly, the aging of the population over the next 50 years will result in a rapid and severe decline in the number of current workers supporting each program beneficiary. While there are currently over four covered workers for each beneficiary, this ratio will decline to slightly over two workers per beneficiary by the middle of the next century. Thus, although the financing problem has been delayed, much remains to be done to bring future program financing into balance.

LEGISLATION

The trends reflected in recent trustees reports, showing a stable or improved short-run outlook for the HI trust fund, effectively shifted the focus of Medicare debate. Concern over Medicare financing now centers on the effects of program outlays on overall budget deficits rather than on trust fund adequacy. However, a direct relationship exists between program outlays and trust fund balances. Program changes that reduce expenditures also increase trust fund balances and push farther into the future the year for projected trust fund depletion. Thus, legislation that increases program revenues or reduces expenditures also helps to reduce defer the trust fund deficit as well.

Julian Pettengill

HOUSING

MLC-045

HOUSING ASSISTANCE TO LOW- AND MODERATE-INCOME HOUSEHOLDS

...2-year moratorium proposed...

Since 1937, the Federal Government has been helping to provide housing for low- and moderate-income families. During much of this time, its efforts were directed toward promoting new construction, through subsidy of capital costs in public housing or of interest rates in privately built housing for moderate income families. In the 1960s, dissatisfaction with public housing projects led to rental subsidies for leased units in existing housing, and then to rent supplement payments for tenants in moderate-income construction built with interest subsidies. The costs and apparent inequities in these programs led to their suspension by the Administration in January 1973.

Housing subsidy programs were reinstituted in late 1974. The Housing and Community Development Act of 1974 established the Section 8 leased housing assistance payments program as the primary vehicle for providing decent housing for lower income families. Under this program, HUD makes payments to private landlords on behalf of lower income tenants to cover the difference between tenant rent payments and a HUD-determined fair market rent. Through these payments, the Section 8 program encouraged the utilization of existing units, the rehabilitation of deteriorated units, and the construction of new housing for lower income families, but the 1983 Authorization Act restricts use of Section 8 to existing housing. As of June 1985, 1,900,000 units were available for occupancy, of which about three-fifths were existing units. Cumulatively, over 2.3 million units of all types had been reserved from the start of the program to the end of FY85.

The major issues concerning this program have been the level of appropriations and the costs, particularly of new construction. Consequently, since 1980, there has been a shift away from new construction to use of existing housing. The level of funding for contract authority for Section 8 and public housing had dropped, so that in FY85 it is two-fifths of the FY79 level, and authority to use Section 8 for new construction and substantial rehabilitation has been virtually ended. To lower HUD expenditures, tenant rent payments have been increased to 30%, rather than 25%, of adjusted income.

The FY86 appropriation sets the level of funding for assisted housing at about the same level of contract authority as for FY85, but about 7% below the FY85 level of budget authority. This is accomplished by greater reliance on 5-year vouchers rather than 15-year Section 8 certificates. The FY86 appropriation is subject to sequestration under the provisions of the Gramm-Rudman-Hollings deficit reduction act, and dramatic further reductions are proposed in the Administration FY87 budget. Programmatic changes originally included in H.R. 1 and partially incorporated by the House in its Omnibus Budget Reconciliation Act of 1986 (H.R. 3500), are not included in the Budget Act adopted by Congress (P.L. 99-272). Different programmatic changes were proposed by the Administration budget and in the House Act of 1986 (H.R. 1), now adopted by the House. The Senate Banking Committee has reported a bill (S. 2507) to the Senate which includes some, but not all, the provisions of H.R. 1. Action by the Senate appears problematic at this moment. The House Appropriations Committee has reported a bill for FY87 appropriations, which differs greatly from the budget proposals, but is consistent with the Budget Reconciliation Act. The House has not yet considered it.

LEGISLATION

P.L. 99-160, H.R. 3038

Department of Housing and Urban Development-Independent Agencies Appropriation Act, FY86. Appropriates $838.8 million in contract authority and $9,965.6 million in budget authority for assisted housing (public housing, Section 8, and vouchers). Of the budget authority, $1,306.5 million is for development of new public housing, of which 20% is for reconstruction of obsolete projects, and $327.6 million for development of Indian housing; $1,500.0 million is for comprehensive modernization (CIAP); $1,616.6 million for Section 8 in conjunction with Section 202 projects; $2,468.2 million for Section 8-Existing certificates; $922.5 million for Section 8 moderate rehabilitation; and $851.2 for housing vouchers in the Section 8(o) program. These voucher funds are released from primary use with the rental rehabilitation program, and from the restriction to a demonstration program. An additional $75 million is appropriated for each of the rental rehabilitation program and rental development program (HODAG). Appropriations for operating subsidies for public housing are set at $1,210.6 million.

For housing for the elderly and handicapped, $631.0 million is made available for loans to nonprofit sponsors of Section 202 housing, with the interest rate continued at 9.25%. Congregate housing is funded at a $2.7 million level and housing counseling at $3.5 million. Continues use of recaptured and repaid funds for Section 235, but no new funding is added. A similar provision is made for Section 312 rehabilitation. Introduced July 18, 1985; reported to House from Committee on Appropriations same day (H.Rept. 99-212). Passed House July 25, 1985. Passed Senate, with amendments, Oct. 18, 1985. Conference Committee report submitted to House and Senate Nov. 8, and adopted by both houses, Nov. 14, 1985. Signed into law Nov. 25, 1985.

H.R. 1 (Gonzalez et al.)

Housing Act of 1986. Authorizes appropriations for current assisted housing programs, including public housing, Section 8 Certificates and vouchers, Section 202 housing for the elderly and handicapped, Section 235 home-ownership assistance, the rental rehabilitation and redevelopment (HODAG) programs and the Farmers Home programs, but does not set an authorization level.

A number of changes are made in the public housing program. Use of development funds obligated after passage of this act is limited to amendments to contracts, to places in which the public housing agency (PHA) certifies that at least 90% of its units meet HUD-established quality standards, or for replacement of demolished or otherwise lost units. Use of already appropriated, unobligated funds can be shifted to modernization if authorized in an appropriation act.

With respect to Section 8 certificates, requirements are included that their term be 15 years, that Fair Market Rents be updated as of October 1 of each year, and that administrative fees for PHAs be restored to the level which prevailed prior to January 1985. The voucher program is separated from its association with the rental rehabilitation program, but income-eligible residents in such projects whose rents are increased to over 30% of income because of the rehabilitation are made eligible to receive vouchers.

The required rent payment in assisted housing programs is reduced to 25% of income for elderly families.

A "Nehemiah" program is authorized which would assist non-profit agencies in the development of new or substantially rehabilitated owner-occupied housing in low-income neighborhoods. Purchasers are to have incomes below 90% of the area median or 115% of the national median, whichever is higher. The assistance is to take the form of a non-interest-bearing loan of up to $15,000, repayable upon sale of the property. A number of conditions are established for participation in the program.

A program for nonelderly handicapped families is established, to receive at least 15% of the funding appropriated for Section 202 housing. HUD is authorized to make loans for development of housing for such families and to assist with operating costs, independently of the Section 8 program.

A National Emergency Food and Shelter Board is established in HUD to conduct a demonstration program giving assistance to nonprofit agencies which provide housing and supportive service to homeless people. Assistance may consist of loans or grants for acquisition or rehabilitation of housing facilities, or operating funds. Funding shall be at a level established in appropriation acts.

Introduced Jan. 3, 1985; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, July 26, 1985 (H.Rept. 99-230). Passed House, amended, June 12, 1986. Referred to Senate June 17, 1986.

Grace Milgram
IB79058

IMMIGRATION

MLC-046

IMMIGRATION ISSUES AND LEGISLATION IN THE 99TH CONGRESS

...legislation passes Senate, pending in House...

Immigration law and policy are widely believed to be in need of reform, and major legislation to accomplish this goal is pending in the 99th Congress. S. 1200, the "Immigration Reform and Control Act of 1985," was introduced on May 23, 1985 by Senator Alan Simpson, the Chairman of the Senate Judiciary Subcommittee on Immigration and Refugee Policy, reported by the full Judiciary Committee on Aug. 28 (S.Rept. 99-132), and passed by the Senate on Sept. 19, 1985. H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985," was introduced on Nov. 21, 1985 by Representative Peter Rodino, the Chairman of the Judiciary Committee, and Representative Romano Mazzoli, the Chairman of the Judiciary Subcommittee on Immigration, Refugees, and International Law. It was reported by the Judiciary Committee on July 16, 1986 and sequentially referred to six other committees, four of which reported it with amendments. It was reported on Aug. 5, 1986 by the Committee on Agriculture, the Committee on Education and Labor, the Committee on Energy and Commerce, and the Committee on Ways and Means. Specific issues addressed include the control of illegal immigration by employer sanctions, the admission of alien agricultural workers, and legalization. The Senate and House bills, which differ in some significant respects, have evolved directly from the Simpson-Mazzoli legislation passed by both houses in the 98th Congress but not enacted, and passed by the Senate in the 97th Congress.

LEGISLATION

H.R. 3810 (as reported by the House Judiciary Committee) (Rodino and Mazzoli)

Immigration Control and Legalization Amendments Act of 1986. Title I -- Control of Illegal Immigration. Part A, Employment, amends the Immigration and Nationality Act to prohibit the knowing employment, or recruitment or referral for a fee, of aliens known to be unauthorized to accept employment in the U.S. Establishes a graduated series of penalties ranging from $1,000 to $2,000 for a first offense, $2,000 to $5,000 for subsequent offenses, and up to $1,000 and/or six months imprisonment for a pattern or practice of violation. Authorizes injunctive and other relief. Establishes mandatory verification procedures with a penalty ranging from $250 to $1,000 for violation. Mandates implementation of and compliance with a social security account number verification system. Prohibits discrimination based on citizenship or alien status and creates an Office of Special Counsel in the Justice Department to investigate and prosecute discrimination complaints. Provides for increased penalties for fraud and misuse of certain immigration-related documents. Part B, Improvement of Enforcement and Services, authorizes supplemental appropriations for INS for FY86 and FY87. Increases penalties for unlawful transportation of aliens to the U.S. Requires an immigration emergency plan and authorizes a contingency fund. Part C, Verification of Status Under Certain Programs. Requires verification of eligibility of aliens applying for benefits under certain welfare programs.

Title II -- Legalization. Establishes a temporary 18-month program requiring the Attorney General to adjust the status of otherwise eligible aliens who have been here continuously since prior to Jan. 1, 1982, to a temporary status adjustable to a permanent status after one year's residence. Excludes legalized aliens for five years from Federal assistance except for emergency medical care, aid to the aged, blind, and disabled, and other specified programs. Provides for permanent legalization and continued Federal assistance to Cuban/Haitian Entrants who entered prior to Jan. 1, 1982, and provides that such adjustment is retroactive to Jan. 1, 1982. Authorizes 100% Federal reimbursement, subject to available appropriations, of State and local expenditures on public assistance programs for legalized aliens, and related educational assistance. Extends registry date to Jan. 1, 1976.

Title III -- Reform of Legal Immigration. Part A, Temporary and Transitional Agricultural Workers, amends existing H-2 temporary alien worker provisions to expedite the admission of temporary alien agricultural workers. Makes nonimmigrant agricultural workers eligible for Legal Services assistance. Creates a special agricultural worker program providing permanent resident status for certain seasonal agricultural workers. Establishes a commission on agricultural workers to report within 5 years. Part B, Other Changes in the Immigration Law, increases legal immigration ceiling for colonies to 5,000 from 600. Prohibits most foreign students from adjusting status or returning to the U.S. until they have completed a two-year foreign residence requirement. Provides special immigrant status for certain employees of international organizations (G-4 nonimmigrants) and their immediate family members. Provides authority for a pilot visa waiver program for nonimmigrant alien visitors for business or pleasure from up to eight countries. Allows natural fathers same immigration benefits as natural mothers. Provides that brief, casual, innocent absences do not break continuous physical presence for the purposes of suspension of deportation.

Title IV -- Reports to Congress. Requires triennial comprehensive reports on immigration; reports on unauthorized alien employment and discrimination in employment; reports on H-2A program; reports on legalization program; report on visa waiver pilot program; and report on INS resources.

Title V -- State and Local Assistance for Incarceration Costs of Illegal Aliens and Certain Cuban Nationals. Provides for Federal reimbursement of States and localities for costs of incarcerating illegal aliens and certain Cuban nationals. Introduced Nov. 21, 1985; referred to the Committee on the Judiciary. Reported July 16, 1986 by the Committee on the Judiciary (H.Rept. 99-682, Pt. 1). Reported Aug. 5, 1986 by the Committee on Education and Labor (H.Rept. 99-682, Pt. 2), the Committee on Ways and Means (H.Rept. 99-682, Pt. 3), the Committee on Energy and Commerce (H.Rept. 99-682, Pt. 4), and the Committee on Agriculture (H.Rept. 99-682, Pt. 5).

S. 1200 (Simpson) (as passed by the Senate)

Immigration Reform and Control Act of 1985. Title I-- Control of Illegal Immigration. Part A, Funding for Improved Enforcement, authorizes appropriations for the U.S. Immigration and Naturalization Service (INS) and for related Labor Department enforcement activities. Part B, Increased Penalties for Immigration-related Violations, increases penalties for unlawful transportation of aliens to the U.S. and for fraud and misuse of certain immigration-related documents, and imposes restrictions on adjustment from nonimmigrant to immigrant status. Part C, Control of Unauthorized Employment of Aliens, amends the Immigration and Nationality Act to prohibit the knowing employment, or recruitment or referral for a fee or other consideration of aliens known to be unauthorized to accept employment in the U.S. Establishes a graduated series of penalties for violation consisting of civil fines ranging from $100 to $2,000 for each alien for a first offense, $2,000 to $5,000 for a subsequent offense, and $3,000 to $10,000 for a pattern or practice of violation, and criminal penalties of not more then $3,000 and/or 6 months imprisonment for a subsequent pattern or practice of violation. Requires the issuance of cease and desist orders. Establishes voluntary verification procedures for employers of four or more, and requires Presidential monitoring and, given certain conditions, improvement of the verification system. Adds provisions to expedite the admission of temporary alien agricultural workers. Establishes a 3-year agricultural labor transition program. Establishes a commission on temporary agricultural labor programs to report within 2 years. Establishes a seasonal agricultural worker program for perishable commodities capped at 350,000 workers at any one time. Part D, Immigration Emergency Revolving Fund, authorizes $35 million for such a fund.

Title II--Legalization of Status of Certain Long-Time Residents. Provides for the establishment of a Presidentially appointed Legalization Commission which must report to the Congress annually on whether appropriate Federal enforcement programs are in effect to substantially curtail illegal immigration, and on whether these programs are likely to continue during a legalization program. Provides that the legalization program will go into effect upon a finding that these conditions are being met or in 3 years, whichever is earlier. Under the one-year legalization program, provides that otherwise eligible aliens who have been here continously since prior to Jan. 1, 1980, and Cuban/Haitian entrants given that status prior to Oct. 15, 1981 may, at the discretion of the Attorney General, be granted a temporary legal status adjustable to permanent resident status after approximately 3 years provided certain conditions are met. Bars legalized aliens except for Cuban/Haitian entrants from Federal assistance for 6 years. Authorizes appropriations of $300 million for the first 2 years and $600 million for the next 4 years for a 6-year capped entitlement impact-assistance program of grants to the States for State and local public assistance costs related to legalization and for the cost of the imprisonment of certain illegal aliens.

Title III--Other Changes in the Immigration Law. Increases the colonial quota from 600 to 5,000. Provides authority for a pilot visa waiver program for nonimmigrant alien visitors for business and pleasure from up to eight countries. Provides special immigrant status for certain employees of international organizations (G-4 nonimmigrants) and their children and widowed spouses. Requires the verification of eligibility of aliens applying for benefit under certain Federal welfare programs. Requires INS officers to obtain search warrants before entering farms.

Title IV--Reports. Requires triennial comprehensive reports on immigration; reports on unauthorized alien employment and discrimination in employment; a report on the visa waiver pilot program; Presidential reports on any legalization program; and a report on INS. Provides that employer sanctions will terminate after 3 years if GAO finds a resulting widespread pattern of discrimination and Congress approves the finding. Expresses the sense of the Congress that the President of the U.S. should consult with the President of Mexico within 90 days after the enactment of this legislation regarding its effect and report to the Congress on the results.

Title V--Commission for the Study of Cooperative United States-Mexican Endeavors to Improve Economic Conditions. Establishes ten-member study commission to report within 6 months.

Title VI--Miscellaneous Provisions. Expresses the sense of the Congress that English is the official language of the U.S. Expresses the sense of the Senate that the tariff on imported ethanol should be implemented immediately. Requires the Federal Government to reimburse State governments for the cost of incarcerating illegal aliens and Marielitos for felonies. Provides that the seasonal agricultural worker program will terminate in three years unless extended by the Congress. Introduced May 23, 1985; referred to the Committee on Judiciary. Reported by Committee on Judiciary Aug. 28, 1985 (S.Rept. 99-132). Passed Senate Sept. 19, 1985 by a vote of 69-30.

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INCOME MAINTENANCE

MLC-047

AID TO FAMILIES WITH DEPENDENT CHILDREN: STRUCTURAL CHANGE

...have urged Congress to reform AFDC...

The Aid to Families with Dependent Children (AFDC) program provides Federal funds to the States for cash relief to children with only one able-bodied parent at home and, in 26 jurisdictions, for those whose primary breadwinner is unemployed. The States determine the benefit levels, but the Federal Government pays at least 50% of the cost in all States and about 54% nationwide.

Since 1969, Presidents, commissions, and others have urged Congress to reform AFDC, but in different ways. One set of proposals, advanced by Presidents Nixon and Carter, aimed to expand eligibility to all poor children and make aid more nearly uniform; the other, advanced by President Reagan, has aimed to narrow eligibility and, within each State, to concentrate funds on the poorest. The 97th Congress chose the second path, voting to reduce or end benefits for families with earnings, for those with a stepparent, and for students beyond high school.

Subsequently, President Reagan asked Congress to restrict eligibility further and to require States to adopt mandatory job search for employable applicants and work programs for recipients.

Congress instead voted some liberalization of AFDC rules for those with earnings or with child support rights and 9 months entitlement to Medicaid for families who lose AFDC eligibility after 4 months of work.

In his FY87 budget, the President repeated proposals to end a parent's benefit when her youngster child is 16 and to withhold AFDC from a minor mother unless she lives at home with her parent. He added a recommendation to penalize States whose administrative costs per recipient exceed 175% of the national median. See issue brief 86038 for details.

The Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings" law) exempts from its deficit reduction machinery AFDC benefits and the Federal share of costs of State administration, but not Federal administrative costs.

In his Feb. 4, 1986 State of the Union message, President Reagan said he was directing the White House Domestic Council to present to him by Dec. 1, 1986 "an evaluation of programs and a strategy for immediate action to meet the financial, educational, social and safety concerns of poor families."

The House has voted three times for a cash income floor for needy families with children: in 1970 and 1971, when it passed the Family Assistance Plan (FAP), first proposed by President Nixon; and in 1979, when it approved a version of President Carter's plan.

The 1969-72 FAP debate and the 1977-78 debate over President Carter's AFDC plan publicized many issues in AFDC, including the following: wide variations in benefit levels; discrimination against mothers who already are employed and against fully employed fathers; work disincentives from simultaneous participation in AFDC and other benefit programs; lack of coordination among the numerous benefit programs; complexity; cost; and tension between Federal and State governments over welfare policy and rules.

For three fiscal years (1977-1979), individual AFDC enrollment declined, but from 1979 to 1981 numbers climbed 8% to a monthly average of 11.2 million, 2% below the record high of 11.4 million set in FY76; and FY81 benefits totaled $12.9 billion.

In October 1981, the month of initial effect of some AFDC budget-cutting provisions of the Omnibus Budget Reconciliation Act of 1981, AFDC enrollment dipped below 11 million for the first time in more than a year. In FY82 enrollment dropped 7% to a monthly average of 10.4 million; but FY83 numbers turned upward and by FY85 numbers reached 10.8 million.

Benefit payments totaled $12.957 billion, $12.593 billion, $13.535 billion, and $14.812 billion respectively, in FY82, FY83, FY84, and FY85.

In March 1986, AFDC enrollment totaled 11.108 million persons in 3.775 million families. The family count was up 1.5% from the year-earlier number, but down 1.5% from the all-time high (excluding foster care children) of 3.834 million families in March 1981. The February caseload consisted of 269,000 families aided because of the unemployment of the primary earner, and 3,505,000 other families, primarily fatherless families. The count of unemployed-parent (AFDC-UP) families was 39,000 below the all-time high of 308,000 set in March 1984.

Benefits averaged $353 per family in March 1986, $340 for one-parent families and $515 for AFDC-UP families. Year-earlier benefits averaged $340, $328, and $497, respectively. March benefits totalled $1.332 billion, an annual rate of $16 billion.

LEGISLATION

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings" Act). Title II sets maximum deficits for each year, FY86-FY91, and establishes procedures to reduce "excess" deficits through mandatory Presidential orders cancelling funds (sequestration). Exempts several programs from any order sequestering funds, including these welfare programs -- AFDC, food stamps, Medicaid, SSI, the Earned Income Tax Credit, veterans' pensions, child nutrition, and Special Supplemental Food Program for Women, Infants and Children (WIC). Places limits on cutbacks in funds for community health centers, migrant health centers, and Indian health facilities and services, all of which serve many low-income persons; plus Medicare. Provides that Federal matching funds can be sequestered only in the cases of child support enforcement and foster care and adoption assistance (and limits "cuts" in the latter two programs to a freeze on payment rates). Signed into law on Dec. 12, 1985. The Supreme Court struck down the law's "triggering" mechanism (a report from the Comptroller General) on July 7, 1986. Subsequently, Congress reaffirmed the 1986 budget cuts by passing legislation that the President signed on July 31, 1986 (P.L. 99-366).

P.L. 99-272, H.R. 3128

AFDC and Medicaid. Consolidated Omnibus Budget Reconciliation Act of 1985. Title XII imposes a 2-year moratorium on collection of fiscal sanctions for AFDC payment errors and requires the HHS Secretary to conduct a study on how best to operate quality control (and requires him to contract with the National Academy of Sciences for a similar study). Authorizes $45 million each for fiscal years

1987 and 1988 for State entitlement programs to help AFDC foster care children aged 16 and over prepare for independent living. Extends through FY87 the ceilings on AFDC foster care funds when annual child welfare services appropriations equal at least $266 million; extends through FY87 provisions allowing payments for children placed in foster care under a voluntary agreement. Establishes Medicaid eligibility for a child whose adoption is federally aided at the time the child is placed for adoption. Preserves Medicaid eligibility for disabled widow(er)s who lost SSI eligibility because of increased Disability Insurance benefits resulting from 1983 changes in the DI actuarial reduction formula.

H.R. 880 (Johnson et al.)
AFDC. Authorizes pilot and demonstration projects for caretaker parents with preschool children enrolled in AFDC, to test whether education or vocational training will enable them to earn their living. Introduced Jan. 31, 1985; referred to Committee on Ways and Means.

H.R. 1081 (Stark et al.)
AFDC. Provides special grants to States for programs designed to promote self-sufficiency of women under age 25 who are pregnant or have children under school age. Requires States to give AFDC to first-time pregnant women in the program. Introduced Feb. 7, 1985; referred to Committee on Ways and Means. The House adopted a similar provision in passing H.R. 3128.

H.R. 2585 (H. Ford and Rangel)/ S. 1194 (Moynihan)
AFDC, SSI, EITC, food stamps, Social Security. The Family Economic Security Act of 1985. Requires States to pay an AFDC benefit that, combined with food stamps, equals at least 55% of a family's poverty threshold (rising, over 5 years, to a combined benefit floor of 70% of poverty); increases Federal matching funding for AFDC benefit increases above the mandatory floor level; requires all States to offer AFDC to needy two-parent families (without regard to employment status); increases the maximum EITC from $550 to $880, phased out at gross income of $16,000 (compared with $11,000 in current law); requires AFDC and SSI to disregard EITC payments as income; and restores a permanent work incentive bonus to AFDC (disregard of 25% of earnings left after a standard deduction of $100 monthly, plus deduction of day care costs up to $160 per child, with a family limit of $320). Increases SSI benefits by $20 monthly ($30 for couples), eliminates the actuarial benefit reduction in social security for widow(er)s aged 80 or more; raises the zero bracket amount in the tax code for heads of households to that of married couples filing jointly. Requires States to give 1 year of Medicaid coverage to families who leave AFDC without private health insurance. Makes numerous other changes. Introduced May 22, 1985; referred jointly to Committees on Ways and Means and on Energy and Commerce. Companion bill, S. 1194, introduced the same day; referred to Committee on Finance. Subcommittee on public assistance and unemployment compensation approved provision requiring all States to offer AFDC-UP, in amended form, on July 18, 1985. Ways and Means Committee approved this provision on July 24, 1985, for inclusion in budget reconciliation bill (H.R. 3128).

H.R. 2944 (Campbell et al.)
AFDC. Social Welfare Amendments of 1985. Embodies several recommendations of President's FY86 budget, including mandatory work rules, a ban on AFDC for minor parents not living at home, and an end to open-ended funding for State administrative costs. Introduced July 10, 1985; referred to Committee on Ways and Means. (See also S. 1081.)

H.R. 3110 (R. Lehman et al.)
AFDC-UP. Provides for projects in counties with high unemployment and a high proportion of unemployed families enrolled in AFDC, demonstrating the effect of eliminating the rule barring AFDC-UP for families whose primary earner works as much as 100 hours a month. Introduced July 30, 1985; referred to Committee on Ways and Means.

H.R. 4018 (Petri)
AFDC. Prohibits AFDC for minor parents who live away from home. Introduced Jan. 21, 1986; referred to House Ways and Means Committee.

H.R. 4630(Leland et al.)
Medicaid and AFDC. Medicaid Infant Mortality Amendments of 1986. Permits States to give Medicaid to pregnant women and to infants under one year old with family income (as counted under AFDC rules) below 100% of the Federal poverty income guidelines ($9,120 for a 3-person family in 1986). Introduced Apr. 17, 1986 and referred to the Committee on Energy and Commerce. Similar to S. 2333. See also H.R. 2288.

H.R. 4727 (Ford)
AFDC. Requires State AFDC programs to include unemployed two-parent families (AFDC-UP). Introduced May 1, 1986; referred to Ways and Means Committee. (Provision was passed by House in 1985 as part of H.R. 3128, but dropped in conference. See P.L. 99-272).

H.R. 4929 (Levin et al.)
AFDC. Work Opportunities and Retraining Compact (WORC). Requires each State to establish a single comprehensive AFDC work program with a centralized intake and registration process, to provide education and training options for registrants, and to make available to them child care and transportation costs. Offers 70% Federal funding for training and education costs, 50% funding for administrative and support service costs, such as child care. Requires Federal Government to establish performance measures related to "outcomes." Introduced June 4, 1986 and referred to the Committee on Ways and Means. Identical Senate measure is S. 2513, introduced the same day. A related House bill is H.R. 4986.

H.R. 4986 (Hawkins)
AFDC. Work Incentive Amendments.

S. 19 (Moynihan)
AFDC. Authorizes $75 million annually in grants for programs that seek to prevent long-term dependency of pregnant teenagers and teenage mothers. Introduced Jan. 3, 1985; referred to Committee on Finance. (Similar bill was introduced in 1984.) See H.R. 3128.

S. 1081 (Roth)
AFDC. (Administration's FY86 budget proposals.) Ends a parent's benefit when her youngest child is 16; generally withholds AFDC from a minor mother unless she lives at home with her parent. Requires States, over 3 years, to establish work programs for all employable recipients. Ends open-ended Federal matching funds for most State administrative costs, but authorizes separate funding for administrative costs of work programs. Introduced May 7, 1985; referred to Committee on Finance.

S. 1237 (Dodd)
AFDC, food stamps, Medicaid, EITC, social services. Children's Survival Act. Restores permanent work incentive bonus to AFDC and increases its size; establishes a national minimum AFDC benefit (75% of the Federal poverty guideline, payable in a combination of AFDC and food stamps); increases Federal matching funding for AFDC benefit increases; requires States to offer AFDC to 2-parent families whose primary earner is unemployed; plus numerous other changes. Introduced June 4, 1985; referred to Committee on Finance.

S. 2288 (Chiles et al.)
Medicaid and AFDC. Infant Mortality Prevention Act of 1986. Permits States to give Medicaid to pregnant women and infants under one year old (regardless of family structure or employment status) with AFDC-countable family incomes in FY86 below 65% of the Federal poverty income guidelines (a limit equal to $5,928 for a 3-person family). Increases income limits to 80% of poverty guidelines in FY87 and to 100% in FY88. Introduced Apr. 11, 1986 and referred to the Committee on Finance. See also S. 2333.

S. 2333 (Durenberger et al.)
Medicaid and AFDC. Medicaid Maternal and Infant Amendments of 1986. SImilar to H.R. 4630 and introduced the same day. Referred to the Committee on Finance.

S. 2371 (Roth)
AFDC and child support. Family Assistance and Child Support Enforcement Administrative Improvements Act. Lowers Federal matching rates, as proposed in President's FY87 budget. Companion to S. 1081, which contains other Administration budget proposals. Introduced Apr. 24, 1986; referred to Finance Committee.

S. 2513 (Moynihan et al.)
AFDC. Work Opportunities and Retraining Compact (WORC). See H.R. 4929.

S. 2657 (Hatch)
AFDC, WIN. Work Incentive Block Grant Act. Authorizes $250 million per year (beginning with FY87) for WIN grants to States. Allots funds on basis of States' share of total WIN registrants. Permits transfer of WIN funds to Part A of Title II of the Job Training Partnership Act. Authorizes use of WIN funds for basic education, training, work experience, job development, work expenses, and other items, but prohibits their use for provision of public service employment of an AFDC recipient or for payment of wages to such a recipient. Numerous other provisions. Introduced July 21, 1986; referred to the Committee on Finance.

S. 2658 (Hatch)
AFDC. Pro-family preservation and demonstration program act. Authorizes States to operate demonstration programs for needy children of an unemployed parent who is the principal earner. Allows such assistance only for a limited period, conditions eligibility upon participation by the principal earner in a work activity, specifies that a State's application shall be deemed approved unless the HHS Secretary gives written disapproval. Numerous other provisions. Introduced July 21, 1986; referred to Committee on Finance.

S.Con.Res. 120
WIN. Senate Concurrent Resolution on the Budget for Fiscal 1987. The Senate Budget Committee on Mar. 24, 1986 approved the President's recommendation to end WIN funding, but the Senate adopted a floor amendment on April 30 to restore funding and passed the measure on May 2. Conference agreement, which assumed continuation of WIN funds, was passed by House June 26, 1986 and by Senate June 27.

Vee Burke
IB74013

MLC-048

BLACK LUNG" PROGRAMS: 1986

...Trust Fund "deficit"...

The cost of the Part C black lung program exceeds the revenue from the coal tax that is supposed to finance it through the Black Lung Disability Trust Fund. The gap is made up through loans from the Federal Treasury. Over time, these loans have built up a substantial Trust Fund "deficit" and required increasingly large interest payments from the Trust Fund.

In 1985, and again in 1986, the Administration proposed to end the need for Treasury loans by increasing coal taxes by 50%. In early 1986, Congress responded with its own resolution of the problem in P.L. 99-272: a 10% increase in coal taxes, coupled with forgiveness of Trust Fund interest payments to the Treasury for 5 years.

Other issues include the size of the anticipated rise in black lung benefits in January 1987; reducing the large backlog of black lung cases on appeal; and Administration proposals to "round down" Part B black lung benefits and reduce social security disability benefits to some Part B recipeints.

LEGISLATION

P.L. 99-272, H.R. 3128
Includes provisions affecting financing of the Black Lung Disability Trust Fund. Introduced and reported from the House Committee on Ways and Means on July 31, 1985 (H.Rept. 99-241). Passed House Oct. 31, 1985. Passed Senate

with major revisions (See S. 1730) Nov. 14, 1985. Conference agreement filed Dec. 19, 1985 (H.Rept. 99-253). Conference agreement approved by the Senate Mar. 14, 1986, and by the House Mar. 20, 1986. Enacted Apr. 7, 1986.

Joe Richardson
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MLC-049

FOOD STAMPS: 1986

...competing proposals...

The 1985 Food Security Act extended authorization for Food Stamp Act appropriations through FY90, increased benefits, liberalized eligibility standards, and required State-designed work and training programs for food stamp recipients. Between $500 million and $1.1 billion in new spending is expected over the next 4 years because of these revisions.

The 1986 debate centers on two sets of proposals. Seeking greater Federal budget control, Sen. Helms and the Administration (in S. 2239 and S. 2567) ask repeal of liberalizations enacted in 1985, saving about $200 million in FY87. The Administration also proposes additional spending cuts of some $150 million, national minimum standards for participation in work and training programs, and State-option "block grants" instead of food stamps. On the other hand, Rep. Pannetta and Sen. Kennedy (in H.R. 4990 and S. 2495) recommend benefit increases to deal with a perceived need for greater food assistance efforts, at a food stamp cost of $600 million in FY87.

Other significant issues include the adequacy of FY86 appropriations; increased program access for the homeless; Low-Income Home Energy Assistance Act benefits and food stamps; treatment of student expenses; the recently enacted ban against sales taxes on food stamp purchases; and fiscal sanctions on States for erroneous issuance of benefits.

LEGISLATION

P.L. 99-198, H.R. 2100
Food Security Act of 1985. Title XV includes revisions to and reauthorization of the Food Stamp program. Introduced Apr. 18, 1985; referred to House Committee on Agriculture. Reported with amendments Sept. 13, 1985 (H.Rept. 99-271, pt. 1). Approved by the House, with amendments, Oct. 8, 1985. Approved by the Senate, with amendments, Nov. 23, 1985. Conference agreement filed Dec. 17, 1985 (H.Rept. 99-447). Conference agreement approved by the House and Senate on Dec. 18, 1985. Enacted Dec. 23, 1985.

H.R. 4990 (Pannetta)
Hunger Relief Act of 1986. Proposes substantial changes in all Federal food assistance programs, nutrition education, and nutrition monitoring and research. Introduced June 11, 1986; referred to House Committees on Agriculture, Education and Labor, and Science and Technology.

S. 2239 (Helms)
Food Stamp Cost Avoidance Act. Introduced Mar. 26, 1986; referred to Senate Committee on Agriculture, Nutrition, and Forestry.

S. 2495 (Kennedy)
Hunger Relief Act of 1986. Proposes substantial changes in all Federal food assistance programs, nutrition education, and nutrition monitoring and research. Introduced May 21,-1986; referred to Senate Committee on Agriculture, Nutrition, and Forestry.

S. 2567 (Helms, by request)
Food Stamp and Commodity Distribution Amendments of 1986. Incorporates Administration food stamp proposals submitted as part of the FY87 budget request. Introduced June 18, 1986; referred to Senate Committee on Agriculture. Nutrition, and Forestry.

Joe Richardson
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MLC-050

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP): 1986 ISSUES

...reauthorization...

The Low-Income Home Energy Assistance Program (LIHEAP) makes Federal grants available to States to provide low-income households several types of aid: assistance in meeting regular heating or cooling bills; crisis aid in energy-related emergencies; and low-income weatherization. The $2 billion available in FY86 is expected to aid up to 7.5 million households.

The current authorization for LIHEAP appropriations expires on Sept. 30, 1986. However, the Administration's FY87 budget and the Congressional budget resolution for FY87 assume appropriations will be reauthorized, and a bill extending the authorization for 4 years (H.R. 4421) is under consideration by a House-Senate conference committee. FY87 appropriations for the program are on hold pending action on reauthorization.

Major issues in the reauthorization legislation include the level of future appropriation authorizations and the administration of crisis intervention aid. Other notable issues are: the relationship between amounts available from recouped oil overcharges and LIEHAP funding; the interaction between the formula approtioning funds among the States and actual appropriation levels; and the treatment of LIHEAP beneficiaries in the Food Stamp Program.

LEGISLATION

H.R. 4421 (Kildee)

Community Services Programs Amendments of 1986. As amended in the Senate, when approved as S. 2444, reauthorizes appropriations for the Low-Income Home Energy Assistance Program (LIEHAP) through FY90; and amends provisions of law governing the LIHEAP. Introduced Mar. 17, 1986; referred to House Committee on Education and Labor. Reported with amendments Apr. 17, 1986 (H.Rept. 99-545). Approved by the House Apr. 29, 1986. Approved by the Senate, as S. 2444, July 14, 1986.

H.R. 4422 (Kildee)

Low-Income Home Energy Assistance Amendments of 1986. Reauthorizes appropriations for the LIHEAP through FY89 and amends provisions of law governing the LIHEAP. Introduced Mar. 17, 1986; referred to House Committee on Education and Labor. Reported with amendments Apr. 24, 1986 (H.Rept. 99-556, part I). Jointly referred to House Committee on Energy and Commerce. (Note: Provisions of this bill are under consideration in the House-Senate conference on H.R. 4421.)

S. 2444 (Stafford for Hawkins)

Human Services Reauthorization Act of 1986. Includes reauthorization of LIHEAP appropriations through FY90 and amendments to provisions of law governing the LIHEAP. Introduced May 13, 1986; referred to Senate Committee on Labor and Human Resources. Reported May 20, 1986. Approved by the Senate, as its version of H.R. 4421, July 14, 1986.

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MLC-051

SOCIAL SECURITY ISSUES IN THE 99TH CONGRESS

...Social Security still active legislatively...

COLA Constraints Were Proposed in 1985

Measures to reduce social security COLAs were given serious consideration when the Senate Budget Committee proposed that the January 1986 social security COLA be skipped. COLA constraints affecting other Federal benefit programs, among them civil service and military retirement, had been proposed by the President in his FY86 Budget submitted in January 1985; however, social security had been exempted. The Budget Committee added social security to the list of programs whose COLAs were to be skipped in 1986 in making its deficit-reduction recommendations to the Senate. The measure was included in S.Con.Res. 32, the Committee's proposed first concurrent budget resolution for FY86 (which involves the goal-setting stage of the congressional budget process). The social security portion of the COLA "freezes," as they were called, was estimated to yield $22 billion in savings over the FY86-88 period, and even larger savings in subsequent years.

An alternative COLA cutback proposal emerged shortly thereafter, as part of a substitute deficit-reduction package developed jointly by the Administration and the Senate Republican leadership. Instead of freezing COLAs in the affected Federal retirement programs for one year, it would have limited the COLAs for the next 3 years to 2% per year plus any amount by which inflation exceeded the Administration's assumptions (its assumptions at that time suggested that inflation would hover in the high 3% or low 4% range during the next few years). It further included a guarantee provision under which the affected COLAs could not be less than 2%. It, too, would have resulted in about $22 billion in social security savings over the following 3 years (as well as higher savings in later years).

Initially, when the Senate took up the Budget Committee's proposed first budget resolution, it rejected both the COLA freeze and the alternative COLA limitation by agreeing on May 1, 1985 (by a vote of 65 to 34) to an amendment by Senator Dole, for Senators Hawkins and D'Amato, to provide for full funding of social security COLAs. However, on May 10, 1985 -- after considering many amendments to the Budget Committee's recommendations -- the Senate adopted (by a vote of 50 to 49) an entirely revised budget package, introduced by Senator Dole, which incorporated the original COLA freeze recommended by the Committee. Subsequently, the Senate considered an amendment by Senator Moynihan to provide a full social security COLA in January 1986, but it was tabled (by a vote of 51 to 47). The final budget resolution then passed by the Senate assumed later enactment of the 1986 COLA freezes, including one affecting social security.

The House-passed version of the first budget resolution for FY86, H.Con.Res. 152, assumed that full COLAs would be paid in all Federal benefit programs in FY86. During floor debate on the resolution on May 22, 1985 the House rejected an amendment (by a vote of 389 to 32) offered by Representative Dannemeyer to limit social security COLAs to 2% per year for the 3-year period FY86-88. On May 23, 1985 the House also rejected (by a vote of 372 to 56) an amendment offered by Representative Leath to freeze 1986 COLAs for social security, Federal retirement, and veterans compensation while adding back 20% of the anticipated savings to programs that aid needy elderly and disabled people. Provisions of the House-passed resolution were inserted in S.Con.Res. 32, in lieu of the Senate-passed measures, and passed on May 23, 1985.

Conferees for the House and Senate met throughout June and July 1985 to work out an agreement on a deficit reduction package. Among the number of ideas that surfaced were proposals to delay the Senate-passed COLA freezes until 1987, means test the COLAs, make both the COLAs and adjustments to income tax brackets effective every other year (instead of annually), and increase the amount of social security benefits that would be subject to income taxes. Ultimately, however, agreement could not be reached on any form of social security constraint, and the conference agreement on the First Concurrent Resolution on the Budget for FY86, passed on Aug. 1, 1985, did not assume any such savings.

Legislation was Enacted to Take Social Security Out of the Budget

In response to the attempts to include social security changes in the deficit reduction package, a number of measures emerged in the fall of 1985 to remove social security from future Federal budgets and make it procedurally difficult for social security cutback measures to be brought up in the congressional budget process. On Sept. 19, 1985, the Senate agreed to an amendment to S. 1200 (the Immigration Reform and Control Act of 1985) by Senators Cranston and Riegle (by a vote of 79 to 20) instructing the Senate Budget Committee to report back legislation intended to assure that social security benefit changes would not be made for deficit reduction purposes beginning in FY86, and to change the congressional budget process to make it "ineffective to seek to achieve" deficit reductions through changes in social security benefits.

Further steps to keep budgetary actions from affecting social security were taken the following month, when the Senate passed H.J.Res. 372, which raised the statutory debt ceiling and adopted the Gramm-Rudman-Hollings budget balancing procedures. Although early draft versions of the budget balancing measure would have required the President to curtail social security COLAs if the deficit targets (specified in the legislation) were expected to be exceeded, the actual amendment introduced on Oct. 3, 1985 by Senator Dole (and Senators Gramm, Rudman, Hollings et al.) exempted social security from any expenditure reductions resulting from the procedures. An amendment offered by Senator Boren on Oct. 10, 1985 would have included social security COLAs among those that would be subject to automatic reduction, but it was rejected (by a vote of 71 to 27). Under the bill, as finally passed by the Senate on Oct. 10, 1985, social security's income and outgo would be counted from FY86 through FY91 in assessing whether and the extent to which the Government was achieving the required deficit reduction goals, but the program would be exempt from any cutbacks the President might have to make. The measure also made it "out of order" for a budget resolution or reconciliation bill brought up in the House or Senate to include changes to social security. It further stipulated that social security would be considered off-budget immediately upon enactment (instead of beginning in FY93, as provided by the Social Security Amendments of 1983).

The House took up and passed its own budget-balancing measure on Nov. 1, 1985 (passed by a vote of 249 to 180) through an amendment offered by Representative Rostenkowski to the Senate-passed bill, which called for budgetary treatment and exemptions for social security similar to those specified under the Senate bill.

An agreement on H.J.Res. 372 was ultimately reached by House/Senate conferees on Dec. 10, 1985, retaining the special budgetary treatment of social security benefits reflected in the House and Senate bills. The final measure, however, did include social security administrative expenses within the sphere of Federal administrative expenses that would be subject to potential cuts, and made further procedural and technical changes in the way social security would be handled in the budget process. President Reagan signed H.J.Res. 372 into law on Dec. 12, 1985, as P.L. 99-177 -- The Balanced Budget and Emergency Deficit Control Act of 1985.

The Social Security Administration's Independence and the Treasury's Handling of the Trust Funds Were Considered

On July 16, 1986, the House Committee on Ways and Means reported out "The Social Security Administrative and Investment Reform Act of 1986," H.R. 5050*(see House Report 99-680). The House passed the bill on July 22, 1986, by a vote of 401-0. The bill would establish SSA as an independent agency to administer the OASDI and SSI programs, effective one year after enactment. The agency would be governed by a three-member board appointed by the President and confirmed by the Senate. Only two members could be from the same political party. They would serve staggered 6-year terms, except for those comprising the first Board appointed after enactment. These first three members would have terms that expire on January 31 of 1989, 1991, and 1993 respectively.

A Commissioner and Deputy Commissioner would be appointed by the Board to serve 5-year terms. The Commissioner would be expected to act as a "chief operating officer" responsible for "day-to-day administrative affairs." Also appointed by the Board for a 5-year term would be a new "beneficiary ombudsman," whose office would represent "the interests of OASDI and SSI beneficiaries in the agency's decision-making process" and assist them "in resolving problems in unusual or difficult cases..."

The bill also contains provisions that limit the discretion of the Secretary of the Treasury in his handling of social security trust fund matters. Responding to criticisms about how the Secretary twice in the past 2 years suspended his normal investment practices for the social security and other trust funds because of a Government-wide statutory limit on the amount of Federal securities and bonds he could issue, the bill imposes procedural requirements during a period when his borrowing authority is constrained by a statutory debt ceiling. Among various provisions, the bill requires that he notify Congress at least 15 days before he is unable to issue new securities to the trust funds due to a debt-ceiling constraint. Further, if during a period when he is operating under a debt ceiling constraint, he finds that he must delay issuing new securities to the social security trust funds, he is prohibited from redeeming any existing securities from the trust funds until he posts the new ones. The inability to redeem existing securities from the trust funds would appear to keep him from paying social security benefits and other expenses, thereby imposing pressure on Congress to quickly resolve any debt ceiling disputes.

The Senate Finance Committee, in reporting out H.J.Res. 668 on July 18, 1986, which would authorize an increase in the statutory debt ceiling, recommended measures similar to those in H.R. 5050 that would limit the Secretary of the Treasury's discretion in handling the social security trust funds during a period of debt ceiling constraint. The bill does not contain the other measures of H.R. 5050. In beginning floor consideration of H.J.Res. 668 on July 23rd, the Committee modified its original measure regarding the Treasury Secretary's discretiuon in handling trust fund investments. The modified measure permits him to sell or redeem trust fund securities if needed to meet social security benefits or expenses. The full Senate approved H.J.Res. 668 with the modified social security measure on Aug. 9, 1986.

Proposals Were Made to Assure A January 1987 COLA

Also added to the Senate version of H.J.Res. 668 is a measure that would provide a social security COLA in January 1987 no matter how low the level of inflation turns out to be. Under existing law, if inflation is less than 3% during the 3rd quarter of one year to the 3rd quarter of the next, the COLA would have to be delayed. Through the early part of the summer, inflation had been running at an annual rate of about 1 to 1.5%, and it became very unlikely that it would reach the 3% threshold by the close of the measuring period in September. The Senate-passed provision would permanently eliminate the 3% requirement. A similar measure was approved by the House Ways and Means Committee as part of its budget reconciliation provisions and incorporated in H.R. 5300, the Omnibus Budget Reconciliation Act of 1986. House floor action on the bill was expected to occur in September.

David Koitz

MLC-052

WELFARE REFORM

...funding ceilings proposed...

Since 1969, Presidents, commissions, and others have urged Congress to reform the Nation's multibillion dollar welfare "system," but in different ways. One set of proposals, advanced by Presidents Nixon and Carter, aimed to expand eligibility for cash aid and to make aid less uneven; the other, advanced by President Reagan, has aimed to narrow eligibility The 97th Congress chose the second path, voting in the Omnibus Budget Reconciliation Act to reduce or end benefits from the Aid to Families with Dependent Children (AFDC) program for families with earnings, for those children with a stepparent, and for students beyond high school; to freeze food stamp benefits for a time; and to reduce housing subsidies.

President Reagan recommended that the 98th Congress extend this reform process with new cuts in AFDC, food stamps, Medicaid, and housing aid. In 1984, however, Congress voted to liberalize several terms of AFDC, SSI, Medicaid, and the Earned Income Tax Credit (EITC).

In 1985, Congress rejected FY86 budget proposals to replace the Federal food stamp program with optional block grants to States and to end open-ended matching funding for State administrative costs of AFDC benefit payments, Medicaid, and food stamps. Moreover, the House voted (but the Senate ultimately refused) to liberalize AFDC by requiring all State programs to include needy families of unemployed parents (See P.L. 99-272).

The President's FY87 budget repeated earlier proposals to require States to adopt mandatory work programs for employable AFDC and food stamp recipients without young children and to end AFDC benefits for minor mothers living apart from their parents. It also proposed a ceiling on Medicaid funds and lower Federal reimbursement for some State costs of administering AFDC, Medicaid and food stamps.

The Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings" law) exempts from its deficit reduction machinery AFDC, food stamp, Medicaid, EITC, and SSI benefits, as well as the Federal share of costs of State administration of AFDC, Medicaid, and food stamp benefits. Federal administrative expenses of these welfare programs are not exempt.

Various studies and critics have identified the following problems in the welfare system, among others: wide variations in benefit levels, exclusion of millions of the needy from help, unintended potential penalties against marriage and the family, work disincentives, lack of coordination, high error rates, administrative complexity, high costs, Federal-State tension over welfare policy and rules, and harsh treatment of some recipients. Basic issues faced by all proposals to change welfare include: Who should be eligible for how much aid of what kind, and what level of government should pay for it?

LEGISLATION

P.L. 99-177, H.J.Res. 372

Balanced Budget and Emergency Deficit Control Act of 1985 (The "Gramm-Rudman-Hollings" Act). Title II sets maximum deficits for each year, FY86-FY91, and establishes procedures to reduce "excess" deficits through mandatory Presidential orders cancelling funds (sequestration). Exempts several programs from any order sequestering funds, including these welfare programs -- AFDC, food stamps, Medicaid, SSI, the Earned Income Tax Credit, veterans' pensions, child nutrition, and Special Supplemental Food Program for Women, Infants and Children (WIC). Places limits on cutbacks in funds for community health centers, migrant health centers, and Indian health facilities and services, all of which serve many low-income persons; plus Medicare. Provides that Federal matching funds can be sequestered only in the cases of child support enforcement and foster care and adoption assistance (and limits "cuts" in the latter two programs to a freeze on payment rates). Signed into law on Dec. 12, 1985. On July 7, 1986, the Supreme Court struck down the law's "triggering" mechanism (a report issued by the Comptroller General). Subsequently, Congress reaffirmed the 1986 cuts by passing legislation that the President signed on July 31, 1986 (P.L. 99-366).

P.L. 99-198, H.R. 2100

Food stamps. Food Security Act of 1985. Title XV of this general farm bill restores automatic food stamp eligibility to recipients of cash welfare. Increases earned income disregard from 18 to 20% of earnings. Introduced Apr. 17, 1985; referred to Committee on Agriculture. Reported Sept. 13, 1985 (H.Rept. 99-271, Part 1). Senate and House passed conference report Dec. 18, 1985. Signed into law Dec. 23, 1985.

P.L. 99-272, H.R. 3128

AFDC and Medicaid. Consolidated Omnibus Budget Reconciliation Act of 1985. Title XII imposes a 2-year moratorium on collection of fiscal sanctions for AFDC payment errors and requires the HHS Secretary to conduct a study on how best to operate quality control (and requires him to contract with the National Academy of Sciences for a similar study). Authorizes $45 million each for fiscal years 1987 and 1988 for State entitlement programs to help AFDC foster care children aged 16 and over prepare for independent living. Extends through FY87 the ceilings on AFDC foster care funds when annual child welfare services appropriations equal at least $266 million; extends through FY87 provisions allowing payments for children placed in foster care under a voluntary agreement. Establishes Medicaid eligibility for a child whose adoption is federally aided at the time the child is placed for adoption. Preserves Medicaid eligibility for disabled widow(er)s who lost SSI eligibility because of increased Disability Insurance benefits resulting from 1983 changes in the DI actuarial reduction formula.

H.R. 433 (Roybal)

SSI. Repeals rule that SSI benefits be reduced for persons who share households. Introduced Jan. 7, 1985; referred to Committee on Ways and Means.

H.R. 1443 (J. Rowland)

AFDC, Medicaid, food stamps, SSI. Income Maintenance Integrity Act. Establishes a 3-year program of Federal aid to assist States in cross-matching their welfare rolls against records of financial institutions to verify eligibility. Introduced Mar. 6, 1985; referred to Committee on Government Operations.

H.R. 2585 (H. Ford and Rangel)/ S. 1194 (Moynihan)

AFDC, SSI, EITC, food stamps, social security. Family Economic Security Act of 1985. Requires States to pay an AFDC benefit that, combined with food stamps, equals at least 55% of a family's poverty threshold (rising, over 5 years, to a combined benefit floor of 70% of poverty); increases Federal matching funding for AFDC benefit increases above the mandatory floor level; requires all States to offer AFDC to needy two-parent families (without regard to employment status); increases the maximum EITC from $550 to $880, phased out at gross income of $16,000 (compared with $11,000 in current law); requires AFDC and SSI to disregard EITC payments as income; and restores a permanent work incentive bonus to AFDC (disregard of 25% of earnings left after a standard deduction of $100 monthly, plus deduction of day care costs up to $160 per child, with a family limit of $320). Also increases SSI benefits by $20 monthly ($30 for couples; eliminates the actuarial benefit reduction in social security for widow(er)s aged 80 or more; and raises the zero bracket amount in the tax code for heads of households to that of married couples filing jointly. Requires States to give 1 year of Medicaid coverage to families who leave AFDC without private health insurance. Makes numerous other changes. Introduced May 22, 1985; referred jointly to Committees on Ways and Means and on Energy and Commerce. Companion bill, S. 1194, introduced the same day; referred to Committee on Finance.

H.R. 2944 (Campbell et al)

AFDC. Social Welfare Amendments of 1985. Embodies several recommendations of President's FY86 budget, including mandatory work rules, a ban on AFDC for minor parents not living at home, and an end to open-ended funding for State administrative costs. Introduced July 10, 1985; referred to Committee on Ways and Means. (See also S. 1081.)

H.R. 3838 (Rostenkowski et al.)

EITC. Tax Reform Act of 1985. Title I increases the EITC, raises its gross income limit, and provides for future automatic increases to reflect price inflation. The bill increases the credit from 11% to 14% of the first $5,000 in earnings (from a maximum of $500 to $700 in 1985 dollars). It decreases the rate at which the credit is phased out from 12-2/9% to 10% and raises the point at which the phaseout begins (from $6,500 in 1985 dollars in 1985 and 1986 to $9,000 in 1986 dollars starting in 1987). The bill also would raise tax thresholds above the estimated 1987 poverty threshold for all persons other than single individuals, according to the committee report. Introduced Dec. 3, 1985. Reported by Committee on Ways and Means Dec. 7 (H.Rept. 99-426). Passed by House Dec. 17, 1985. As amended by the Senate Finance Committee (S.Rept. 99-313), raises the point at which the phaseout begins to $10,000 in 1988, increases the income limit to $17,000, and provides that both will be adjusted for price inflation. Conferees agreed on August 16, 1986 to increase the maximum credit to $800 and to share it out between incomes of $9,000 and $17,000.

H.R. 4018 (Petri)

AFDC. Prohibits AFDC for minor parents who live away from home. Introduced Jan. 21, 1986; referred to House Ways and Means Committee.

H.R. 4471 (Stark et al.)

SSI. Increases personal needs allowance for SSI recipients in Medicaid facilities from $25 to $35 monthly, excludes interest and dividends from countable income, permits HHS Secretary to waive penalty for transferring assets for less than fair market value; and makes other changes. Introduced Mar. 20, 1986; referred to Ways and Means Committee.

H.R. 4630 (Leland et al.)

Medicaid and AFDC. Medicaid Infant Mortality Amendments of 1986. Permits States to give Medicaid to pregnant women and to infants under one year old with family income (as counted under AFDC rules) below 100% of the Federal poverty income guidelines ($9,120 for a 3-person family in 1986). Introduced Apr. 17, 1986; referred to the Committee on Energy and Commerce. Similar to S. 2333. See also H.R. 2288.

H.R. 4727 (Ford)

AFDC. Requires State AFDC programs to include unemployed two-parent families (AFDC-UP). Introduced May 1, 1986; referred to Ways and Means Committee. (Provisions was passed by House in 1985 as part of H.R. 3128, but dropped in final conference. See P.L. 99-272).

H.R. 4929 (Levin et al.)

AFDC. Work Opportunities and Retraining Compact (WORC). Requires each State to establish a single AFDC comprehensive work program with a centralized intake and registration process, to provide education and training options for registrants, and to make available to them child care and transportation costs. Offers 70% Federal funding for training and education costs, 50% funding for administrative and support service costs, such as child care. Requires Federal Government to establish performance measures related to "outcomes." Introduced June 4, 1986; referred to the Committee on Ways and Means. Identical Senate measure is S. 2513. A related House bill is H.R. 4986.

H.R. 4986 (Hawkins)

AFDC. Work Incentive Amendments. Authorizes $500 million for FY87 and whatever is needed thereafter for WIN, reduces Federal funding share from 90% to 75% for amounts above the 1986 appropriation of $220 million; disallows WIN funds for mandatory workfare. Requires States to offer comprehensive services including education to WIN registrants and to give them a choice of service. Requires States to provide subsidized jobs for up to 1 year for persons unable to secure unsubsidized work after at least 6 months of employment-related services. Numerous other provisions. Introduced June 11, 1986; referred to the Committee on Education and Labor. See also H.R. 4929.

H.R. 5212 (Jones of Oklahoma et al.)

AFDC. Permits States to require WIN registration of AFDC parents whose youngest child is under age 6. Introduced July 21, 1986; referred to Committee on Ways and Means.

H.R. 5140 (Leland et al.)

AFDC, SSI. Subsidized housing. Other welfare. Homeless Persons' Survival Act of 1986. Proclaims a national right to shelter and provides comprehensive aid for homeless persons. Introduced July 26, 1986; referred to six committees. Companion bill is S. 2608. Related bills are H.R. 5139 and S. 1603.

S. 1081 (Roth)

AFDC. (Administration's FY86 budget proposals). Ends a parent's benefit when her youngest child is 16, generally withholds AFDC from a minor mother unless she lives at home with her parent. Requires States, over 3 years, to establish work programs for all employable recipients. Ends open-ended Federal matching funds for most State administrative costs of work programs. Introduced May 7, 1985; referred to Committee on Finance.

S. 1237 (Dodd)

AFDC, food stamps, Medicaid, EITC, social services. Children's Survival Act. Requires States to offer Medicaid to all pregnant women and all children whose income is below Federal poverty guidelines; increases food stamp benefits and funding for social services and child nutrition; provides for a variety of child care programs, including school-based care and care in public housing projects; increases the earned income tax credit and adjusts it for family size; reduces income taxes for heads of household by raising their zero bracket amount; increases the child care tax credit and makes it refundable; authorizes youth employment and and training programs, school dropout prevention and recovery programs, and school-based student enterprise programs, plus numerous other changes. Introduced June 4, 1985; referred to Committee on Finance.

S. 2288 (Chiles et al.)
Medicaid and AFDC. Infant Mortality Prevention Act of 1986. Permits States to give Medicaid to pregnant women and infants under one year old (regardless of family structure or employment status) with AFDC-countable family incomes in FY86 below 65% of the Federal poverty income guidelines (a limit equal to $5,928 for a 3-person family). Increases income limits to 80% of poverty guidelines in FY87 and to 100% in FY88. Introduced Apr. 11, 1986; referred to the Committee on Finance. See also S. 2333.

S. 2333 (Durenberger et al.)
Medicaid and AFDC. Medicaid Maternal and Infant Amendemnts of 1986. Similar to H.R. 4630 nad introduced the same day. Referred to the Committee on Finance.

S. 2371 (Roth)
AFDC and child support. Family Assistance and Child Support Enforcement Administrative Improvements Act. Lowers Federal matching rates, as proposed in President's FY87 budget. Companion to S. 1081, which contains other Administration budget proposals. Introduced Apr. 24, 1986; referred to Finance Committee.

S. 2513 (MOynihan et al.)
AFDC. Work Opportunities and Retraining COmpact (WORC). See H.R. 4929.

S. 2657 (Hatch)
AFDC, WIN. Work Incentive Block Grant Act. Authorizes $250 million per year (beginning with FY87) for WIN grants to States. Allots funds among States on basis of their share of total WIN registrants. Permits transfer of WIN funds to Part A of Title II of the Job Training Partnership Act. Authorizes use of WIN funds for basic education, training, work experience, job development, work expenses, and other items, but prohibits their use for provision of public service employment of an AFDC recipient or for wages to such a recipient. Numerous other provisions. Introduced July 21, 1986; referred to the Committee on Finance.

S. 2658 (Hatch)
AFDC. Pro-family preservation and demonstration program act. Authorizes States to operate demonstration programs for needy children of an unemployed parent who is the principal earner. Allows such assistance only for a limited period, conditions eligibility upon participation by the principal earner in a work activity, specifies that a State's application shall be deemed approved unless the HHS Secretary gives written disapproval. Numerous other provisions. Introduced July 21, 1986; referred to Committee on Finance.

S.Con.Res. 120
WIN. Senate Concurrent Resolution on the Budget for Fiscal 1987. The Senate Budget Committee on Mar. 24, 1986 approved the President's recommendation to end WIN funding, but the Senate adopted a floor amendment on April 30 to restore funding, and passed the measure on May 2. Conference agreement, which assumed continuation of WIN funds, was passed by House June 26, 1986 and by Senate June 27.

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IB77069

INFORMATION AND PRIVACY

MLC-053

FREEDOM OF INFORMATION ACT AMENDMENTS

...what modifications are necessary...

Two decades ago, Congress developed and adopted, with little useful assistance from the Executive Branch, the Freedom of Information Act (5 U.S.C. 552). It established a presumptive right of public access to agency records, specific categories of information which may be exempted from the rule of access, and a procedure for judicial redress in the event there is a dispute over the availability of request information. Recent history has shown that information access statutes like the F.O.I. Act are controversial for at least two reasons: (1) they have the potential for disclosing "sensitive" information, which can include material that is embarrassing or threatening to political interests as well as to national security, law enforcement activity, personal privacy and business confidentiality, and (2) they disrupt official monopolies on information.

In almost all of the nations where F.O.I. laws now exist, they were championed by the legislators and opposed by the bureaucracy. This clash of wills has often persisted beyond the enactment stage and into the implementation and administration phase. Such has been the case in the Federal Government.

For two decades, Members of Congress have experienced something less than enthusiasm for the F.O.I. Act on the part of the Executive Branch. No agency indicated any support for the legislation when it was under Congressional consideration in the mid-1960s. The President initially objected to the bill, and then reluctantly signed it, indicating to top administrators a lack of sympathy for the statute's requirements. The Attorney General's 1967 memorandum interpreting the Act reflected a bias against the true spirit of the law. When allocating resources for the implementation of the F.O.I.A., the departments and agencies failed to regard its dictates seriously. Later, in 1974, they withheld their support for major amendments to the statute, and the President sought unsuccessfully to veto the reform measure.

As a consequence of this history, some Congressional overseers have become sensitive to, if not suspicious of, Executive Branch pleas and proposals for modifying the F.O.I. Act. However, Members of Congress are interested in further refinement of the F.O.I.A. Various adjustments and changes in the statute have been proposed from time to time during the past few years, and there has been honest disagreement over these measures. Also, both the Carter and Reagan Administrations developed comprehensive legislative packages to amend the F.O.I. Act. The Carter draft proposal was never formally submitted to Congress, but was held at the Office of Management and Budget in 1980 for the newly elected Reagan leadership. A new omnibus F.O.I.A. reform measure was prepared for President Reagan, and it was introduced in both Houses of Congress in 1981. Hearings on it and other bills amending the F.O.I. Act were held in the Senate, and various segments of the Administration proposal were incorporated in F.O.I. legislation sponsored by Senator Orrin Hatch. A slightly modified version of the Hatch bill was adopted by the Senate in 1984, but little interest in the legislation has been evidenced in the House. Controversy has arisen over the necessity for sweeping changes in the statute and concerns have been expressed that some modifications might unnecessarily limit the availability of Executive Branch records.

Although the House Subcommittee on Government Information began hearings on the Hatch bill in late May of 1984, it took no action on the measure prior to the adjournment of the 98th Congress. With the convening of the 99th Congress, Senator Hatch again offered his F.O.I.A. reform proposal (S. 150), but it has not moved out of subcommittee.

In the House, Representative English introduced a measure (H.R. 1882) in early April of 1985 amending the F.O.I. Act to provide procedures whereby business information submitters might challenge potential agency disclosure of their records as a consequence of an F.O.I.A. request. In mid-September, Representative Gerald Kleczka, ranking majority member on the Subcommittee on Government Information, offered an omnibus F.O.I.A. reform bill (H.R. 3319) which, he indicated in a press conference, had been developed with the assistance of the Society of Professional Journalists, Sigma Delta Chi. A few weeks later, Representative Kindness introduced a proposal (H.R. 3496) designed to better protect business information provided to agencies by corporations and sought under the F.O.I. Act. Although none of these measures was given formal committee consideration, a bi-partisan effort was begun in early 1986 by the staff of the Subcommittee on Government Information, in consultation with both the Reagan Administration and various other interests, to develop an omnibus F.O.I.A. reform bill that would be generally agreeable to all concerned. As this attempt became increasingly frustrated by spring, the Subcommittee leadership decided to pursue a more limited legislative objective. A bill (H.R. 4862) addressing only procedures for business information submitters to challenge potential agency F.O.I.A. disclosure of their records was introduced on May 21, 1986, by Representative English for himself and Representative Kindness. A June 5 hearing on the measure was held by the Subcommittee on Government Information and, although some opposition to the proposal was expressed, the panel reported the bill without amendment on June 25, 1986.

LEGISLATION

H.R. 4862 (English and Kindness)

Amends the Freedom of Information Act by providing that agencies establish procedures for submitters of business information to challenge agency decisions to release such information, and for other purposes. Introduced May 21, 1986; referred to Committee on Government Operations. Hearing held June 5 by Subcommittee on Government Information. Reported from Subcommittee without amendment June 25.

S. 150 (Hatch)

Amends the Freedom of Information Act by providing that agencies establish procedures for submitters of business information to challenge agency decisions to release such information; expanding the types of records which are exempt from mandatory disclosure under exemptions 2 (internal personnel information), 4 (business records), 6 (personal privacy), and 7 (law enforcement records); adding new exemptions and exclusions for information maintained by the Secret Service and organized crime material; modifying the fee structure and time limits in the Act; limiting the access rights of aliens, prisoners, persons involved in litigation with the United States, and persons seeking data already publicly available; and for other purposes. Introduced Jan. 3, 1985; referred to Committee on the Judiciary. Considered and reported on May 15 by the Subcommittee on the Constitution.

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IB82003

MLC-054

NATIONAL SECURITY CONTROLS AND SCIENTIFIC INFORMATION

...are export restrictions appropriate?...

Concern about the far reaching efforts to acquire American technology by the Soviet Union and its Warsaw Pact allies prompted the Federal Government, for reasons of protecting national security, to seek restriction of the communication of some scientific information to foreign nationals both within the United States and abroad. Endeavors and policies by any Presidential administration for controlling the dissemination of scientific information have a potential for conflicting with traditions promoting intellectual freedom and civil liberties. These initiatives by the Government have also raised issues regarding the Government's authority for these actions as well as the effect the initiatives may have on research and teaching by scientists. These policies may also be in conflict with existing programs that promote technology transfer or support the collection and dissemination of scientific information. The result has been a germinating, complex and multifaceted controversy.

Government efforts to impose limits on scientific communication arose again in the late 1970s as relations between the United States and the Communist bloc became increasingly strained, with the era of detente coming to an abrupt halt in December 1979, when the U.S.S.R. invaded Afghanistan. During the final months of the Carter Administration, mounting tensions between the super powers prompted the curtailment of various cooperative activities by the U.S. and Soviet Union, including a number of scientific and technological exchanges. Federal officials then began seeking to limit certain presentations or participants at scientific professional conferences and the teaching of some scientific subject matter to certain foreign students. In general, the explanations for these restrictive actions were that a particular kind of information, sensitive in a national security context, was being improperly imparted and, in order to prevent this conveyance, the Government was exercising its regulatory powers. The principal authorities relied upon in these efforts were export control laws -- the Export Administration Act and its regulations, the Arms Export Control Act and its International Traffic in Arms Regulations -- and government research contract prerogatives. However, security classification powers, the Atomic Energy Act, and the Invention Secrecy Act also became significant in some cases.

Initially, such attempts to impose secrecy on or to restrict the communication of scientific information were based upon statutes and administrative regulations currently in force. In every case, however, application had a common basis -- protection of the "national security."

Undoubtedly there is a general consensus among scientists and officials that the Nation's security should be protected. Disagreement arises over how such protection is to be realized. To many scientists, national security results from achievement in science, not from concealment. They point out that "science" and "national security" are not antagonistic to one another. In the past, scientists and government leaders have often demonstrated a broad appreciation of the national security concept, including more than just military considerations. In terms of the current controversy, national security, in its most meaningful context, is not defined by Soviet military capability alone.

Many American scientists concede that some unwanted transfers of scientific knowledge to the Communist bloc have occurred. Their objections to increased Government controls on scientific communication, moreover, does not necessarily imply that they underestimate the external dangers facing the United States, are unmindful of the need for limited official secrecy or national security safeguards, or are unaware of the potential military applications of their research and discoveries. In taking issue with new national security limits on scientific communication, many scientists are disturbed about the effects of such restrictions on the scientific process. In their opinion, ideally, all scientific findings, conclusions, and interpretations should be publicly and generally available, open to criticism as well as improvement, and, if necessary, rejection. Many scientists worry about the pragmatic effect of new national security restrictions on scientific communication. The strength and safety of the nation, they argue, will not necessarily be maintained or improved if scientific and technological progress and innovation are inhibited as a result of limitations on the dissemination of scientific information.

Government leaders supporting increased national security controls on scientific communication have expressed no desire to impede scientific and technological advancement and achievement in the Nation. And officials in the Commerce, Defense, and State departments have indicated differing points of view about restricting the circulation of sensitive scientific information. Some urge more stringent enforcement of existing laws while others believe this strategy alone is inadequate and advocate the creation of new, stronger control authority. Other factors modifying their thinking are differing understandings of the national security concept,, appreciation of the extensive East bloc espionage programs, foreign policy and international trade considerations, academic freedom and First Amendment implications, and some practical enforcement problems.

August 1986

In Congress, several significant debates about increasing national security controls on scientific communication have occurred. Hearings in May 1982 by the Senate Permanent Subcommittee on Investigations on technology transfer resulted in an important report (S.Rept. 97-664) in November of that year. There was also a March 1982 hearing on the impact of national security considerations on science and technology by two subcommittees of the House Committee on Science and Technology; a May 1984 follow-up session by these same two panels; and proceedings by a number of committees and subcommittees reviewing, revising, and extending the Export Administration Act. Soon after the 98th Congress convened in 1983, a number of bills were introduced in both Houses to modify and continue the export statute, which was due to expire automatically at the end of September that year. Although the Act was one of the more controversial authorities used by the Government in the effort to control scientific communication, this consideration was not a primary object of attention in attempts to overhaul the law. Nevertheless, when the House Committee on Foreign Affairs began markup of a bill revising and extending the statute in mid-May of 1983, the following amendment to the proposal, adding a new provision to the policy section of the Export Administration Act, was offered by Representative Lee Hamilton and was accepted by the panel:

> It is the policy of the United States to sustain vigorous scientific enterprise. To do so requires protecting the ability of scientists and other scholars freely to communicate their research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.

In its subsequent report (H.Rept. 98-257, Part 1) on this legislation, the Committee made explicit its view "that traditional scientific communication activities of universities and the academic community, such as basic research, publications, and exchanges in the open classroom and among scholars, should be free from restriction unless the scientific information in question is subject to security classification under the President's Executive Order 12356 or its availability in the United States is limited by government contract controls or proprietary or trade secret restrictions." After brief consideration by some other committees, the proposal was submitted to the Committee of the Whole House, began undergoing debate on September 26, and was adopted with amendments on Oct. 27, 1983.

When the Senate Committee on Banking, Housing, and Urban Affairs marked up its version of the export renewal legislation in mid-May 1983, the Hamilton provision was appended to the bill by Senators Jake Garn, John Heinz, and William Proxmire. However, as reported by the Committee (S.Rept. 98-170), the proposal also modified the national security controls section of the Export Administration Act by making academic institutions subject to the requirements of the commercial agreements provision. Thus, any agreement between an academic entity and any agency of the government of a country to which exports are restricted for national security purposes would be reportable to the Secretary of Commerce if unpublished technical data, including technology identified by the Secretary of Defense as militarily critical, were being imparted. This reporting requirement appeared to give officials a ready opportunity to regulate, through the application of export controls, the content of lectures, conference presentations, teaching, and publications by U.S. academics in certain foreign countries.

The Senate did not begin debate on its bill revising and extending the Export Administration Act until Feb. 23, 1984. The measure was adopted, with various amendments, on March 1. Among the changes made during floor consideration was modification of the Hamilton provision to read as follows:

> It is the policy of the United States to sustain vigorous scientific enterprise. To do so *involves sustaining* the ability of scientists and other scholars freely to communicate their *nonsensitive* research findings by means of publications, teaching, conferences, and other forms of scholarly exchange.
>
> (Key word changes in italic.)

A conference between the two Houses to address differences in their proposals for revising and extending the Export Administration Act began on Apr. 12, 1984. However, the conferees were unable to reach a consensus on some crucial points of disagreement, and an acceptable compromise measure did not emerge prior to the adjournment of the 98th Congress.

Since September 1983, when the statute was due to expire automatically, Congress has extended its termination date on three occasions (97 Stat. 744, 1391; 98 Stat. 36), and the President has invoked national emergency powers on two occasions (E.O. 12444, 48 Fed. Reg. 48215 (Oct. 16, 1983), terminated by E.O. 12451, 48 Fed. Reg. 56563 (Dec. 22, 1983); E.O. 12470, 49 Fed. Reg. 13099-13100 (Apr. 3, 1984)) to continue export regulatory controls when the Export Administration Act lapsed.

With the convening of the 99th Congress, a bill (H.R. 28) was introduced to reauthorize the expired

Export Administration Act. Stripped of many of the controversial provisions that had mired conference committee agreement on such a reauthorization measure during the closing days of the previous Congress, the new proposal was placed on a fast-track schedule by House managers. Referred to the Committee on Foreign Affairs, it was marked up by the Subcommittee on International Economic Policy and Trade on Feb. 28, 1985. The resulting text was then offered in a clean bill (H.R. 1786) introduced on March 28. The Committee on Foreign Affairs approved this amended reauthorization measure on April 3.

That same day, a proposal (S. 883) reactivating the expired Export Administration Act until June 15, 1985, was introduced and adopted in the Senate. During discussion of the measure, it was announced that the bill would be sent to the House where the language of the amended reauthorization measure (H.R. 1786) would be attached in accordance with the fast-track scheduing arrangements.

On April 16, legislation (H.R. 1786) revising and extending the Export Administration Act was discussed in the House and adopted under a suspension of the rules. Subsequently, this passage was vacated and a similar Senate-passed bill (S. 883) was accepted in lieu after being amended to contain the language of the House measure as adopted earlier (131 Cong. Rec. H1991-H2016). The modified proposal was then returned to the Senate which rejected the amended bill on May 3 and a conference with the House was requested to resolve differences over the legislation. Conferees met and concluded their deliberations on June 25. A report (H.Rept. 99-180) was filed that day (see 131 Cong. Rec. H4905-H4923) and subsequently adopted by both legislative chambers on June 27. President Reagan approved the Export Administration Amendments Act of 1985 on July 12 (P.L. 99-64). That same day, he signed E.O. 12525 (see 50 Fed. Reg. 28757 (July 16, 1985)) terminating the national emergency export control authority activated by E.O. 12470 on Mar. 30, 1984. No additional legislation significantly bearing upon the issue of increased national security controls on traditional scientific communication has been considered by the 99th Congress. Nonetheless, the controversy continues.

LEGISLATION

P.L. 99-64, S. 883

Amends the Export Administration Act of 1979 by changing the automatic expiration date of the statute from Mar. 30, 1984, to June 15, 1985. Introduced Apr. 3, 1985; considered and passed by the Senate on Apr. 3, 1985; sent to the House for consideration. Adopted by the House on April 16 after its original language was replaced by the text of H.R. 1786, as amended, revising and extending the Export Administration Act; returned to the Senate. Rejected by the Senate on May 3 and a conference with the House was requested. Conferees met and concluded their deliberations on June 25. The conference report was approved by both chambers on June 27. President Reagan signed the measure into law on July 12, 1985.

H.R. 28 (Roth)

Revises and reauthorizes the Export Administration Act of 1979 with a declaration of policy to sustain the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange; by requiring that any U.S. firm, enterprise, or other nongovernmental entity which enters into an agreement with any agency of the government of an export controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the U.S. to the other party of unpublished technical data of U.S. origin, shall report to the Secretary of Commerce the agreement with such agency with sufficient detail; by defining "technology" as information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Foreign Affairs; marked-up by Subcommittee on International Economic Policy and Trade on Feb. 28; resulting text included in clean bill (H.R. 1786).

H.R. 1786 (Bonker and Roth)

Revises and reauthorizes the Export Administration Act of 1979 with a declaration of policy to sustain the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange; by requiring that any U.S. firm, enterprise, or other nongovernmental entity -- but not colleges, universities, or other educational institutions -- which enters into an agreement with any agency of the government of an export controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the U.S. to the other party of unpublished technical data of U.S. origin, shall report to the Secretary of Commerce the agreement with such agency with sufficient detail; by defining "technology" as information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; by defining "export" to include an actual shipment, transfer, or transmission of goods or technology out of the U.S. and transfer to any person of goods or technology either within the U.S. or outside of the U.S. with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient; and for other purposes. Introduced Mar. 28, 1985; referred to Committee on Foreign Affairs; marked up by Committee on Apr. 3 and ordered reported. Considered and adopted by the House under a suspension of the rules on April 16, but subsequently vacated after its text was substituted for the language of S. 883 which, as modified, was accepted the same day and returned to the Senate.

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LABOR

MLC-055

COMPARABLE WORTH/PAY EQUITY IN THE FEDERAL GOVERNMENT

...do discriminatory practices cause Federal wage gap?...

While the male/female wage gap for the economy as a whole is being much discussed, the Congress is also debating a proposal to study whether discriminatory practices are the cause of the wage gap between male and female Federal workers. It is alleged that female-dominated occupations in the Federal sector are paid less, not because they are 'worth' less, but because they are primarily held by women (sex-based wage discrimination). Opponents of this thesis (including the Administration) argue that pay differences between occupations are essentially determined by supply and demand; that disparities are not caused by sex discrimination; and that general pay rate fixing using comparable worth techniques could cause the government wage structure to become out of balance with the market economy.

About half the States have already or are in the process of conducting pay equity studies. Completed studies have generally found wage disparities between male-dominated and female-dominated jobs. Five States have implemented pay equity adjustments.

As in the 98th Congress, legislation has been introduced in the 99th Congress to require a study of Federal job classification systems and alleged sex-based wage discrimination, and to require the Equal Employment Opportunity Commission to pursue more actively the elimination of discriminatory wage practices.

LEGISLATION

H.R. 27 (Oakar)

Federal Pay Equity Act of 1985. Mandates the U.S. Office of Personnel Management (OPM) to hire a private consultant to examine the Federal pay and classification systems to determine whether or to what extent gender is used as a factor in setting Federal workers' pay rates.

The stated purpose of H.R. 27 is "... to identify any discriminatory wage-setting practices and discriminatory wage differentials within the Federal Government's position- classification system ... and job grading system...." It defines discriminatory wage-setting practices to mean: "practices resulting in a situation in which the rates of pay payable for positions held predominantly by female employees are lower than the rates of pay payable for positions held predominantly by male employees although the work performed in each instance involves comparable duties, responsibilities, and qualification requirements and is performed under comparable working conditions (and, in the case of prevailing rate employees, within the same wage area or within areas subject to the same wage schedules and rates)."

The Office of Personnel Management would be required: (1) to hire a consultant to conduct a study; (2) to prepare a report on the study; (3) to identify appropriate measures for eliminating any discriminatory wage-setting practices; (4) to carry out these measures; and (5) to specifiy which measures are authorized under current law and make recommendations for any legislative or other action. The OPM would have to submit its report to the President, the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs.

The OPM would have to establish a Pay Equity Study Council comprised of at least five (5) members representing labor organizations and at least one (1) member representing an employee organization composed primarily of female employees. The OPM and the Council are to meet to discuss the proposed design and methodology study. Introduced Jan. 3, 1985; referred to Committee on Post Office and Civil Service. Subcommittee hearings held Apr. 4, May 2 and 30, June 18, 1985.

H.R. 375 (Oakar et al.)

Pay Equity Act of 1985. Mandates that the agencies responsible for enforcing the Equal Pay Act, the Civil Rights Act, and certain Executive Orders to report to the President and the Congress on their enforcement activity. Specifically, the EEOC, the Department of Justice, and the Department of Labor would have to report detailed information on (1) the number of pay discrimination cases filed, (2) the number processed, and (3) the nature of the complaints.

The EEOC would have to establish an educational program on eliminating sex-based wage discrimination from private sector pay systems. The educational program would be available for all employers wanting to know about the most effective means of restructuring their pay scales. The EEOC would be required to conduct and promote research to develop methods and techniques for identifying and measuring discrimination in wages and other forms of compensation. Introduced Jan. 3, 1985: referred to Committee on Education and Labor, and Committee on Post Office and Civil Service. Subcommittee hearings held Apr. 4, May 2, May 30, June 18, 1985.

H.R. 3008 (Oakar et al.)

Federal Equitable Pay Practices Act of 1985. To promote equitable pay practices and to eliminate discrimination within the Federal Civil Service. Contains provisions to determine whether the Federal Government's classification systems "are designed and administered in a manner consistent with the general policy" expressed in the discrimination and equal pay laws.

Establishes Commission on Equitable Pay Practices composed of the U.S. Comptroller General, the director of OPM, 5 persons appointed by the President, and 4 persons appointed by the director of OPM. The Commission would select a consultant to conduct a study using both a job-content analysis and an economic analysis of "a representative same of occupations in which either sex is numerically predominant, any race is disproportionantly represented, or either ethnic group is disproportionately represented." Within 18 months, the Commission is to submit the consultant's report and its comments to the President and the Congress. The Commission would be required to make recommendations for eliminating any differentials which cannot be accounted for by the job-content and economic analysis. No recommendation can be made which would reduce any rate of pay or grade.

Defines job-content analysis as meaning "an objective, quantitative method of rating representative entry-level positions" within occupations to determine "composite values" based on such factors as "the skill, effort, responsibilities, qualification requirements, and working conditions."

Defines economic analysis as meaning "an objective method for analyzing differentials in pay" between occupations to determine the extent differentials in pay are attributable to "job-related factors such as seniority, merit, productivity, education, work experience, or veteran status; geographic factors; and other facters, exclusive of sex, race, and ethnicity." Introduced July 16, 1985; referred to Committee on Post Office and Civil Service. Subcommittee hearings held July 23 and markup the same day. Reported, amended, July 29, 1985 (H.Rept. 99-232). Passed House, amended, Oct. 9, 1985. Referred to Senate Committee on Governmental Affairs.

H.Con.Res. 139 (Snowe et al.)
Establishes a commission to study compensation and other personnel policies and practices in the legislative branch. The stated policy of H.Con.Res. 139 is "...that persons employed in the legislative branch shall receive equal pay in cases in which the work performed is comparable, as measured by the composite of skill, effort, responsibility, and working conditions normally required in the performance of the job." H.Con.Res. 139 would establish a Commission on Employment Discrimination in the Legislative Branch. The Commission would be required: (1) to employ a consultant to study and compare the compensation paid within and between job classifications and to analyze personnel policies and practices in the Library of Congress; (2) to evaluate the compensation system and personnel practices in the Library of Congress for compliance with Title VII of the Civil Rights Act of 1964 and make recommendations to Congress for any necessary action to achieve compliance; (3) to develop a comprehensive plan for applying the principles of Title VII of the Civil Rights Act of 1964 to the legislative branch; and (4) to make recommendations to the Congress for improvement of personnel policies and practices in the legislative branch needed to carry out the declared policy. The Commission is to have 13 members – 4 Representatives, 4 Senators, 2 union members at the Library, 2 managers at the Library, and 1 person appointed jointly by the Speaker of the House and the President pro tempore of the Senate. Introduced May 2, 1985; referred to Committee on House Administration.

S. 5 (Byrd, Cranston, and Melcher)
Pay Equity Act of 1985. Requires the executive branch to enforce applicable equal employment opportunity laws and directives so as to promote pay equity by eliminating wage setting practices which discriminate on the basis of sex, race, ethnicity, age or disability and result in discriminatory wage differentials. The EEOC would be required to publish in the Federal Register within 9 months proposed guidelines for identifying and eliminating discriminatory wage-setting practices.

The bill defines discriminatory wage-setting practices to mean: "the setting of wage rates paid for jobs held predominantly by female workers lower than those paid for jobs held predominantly by male workers although the work performed requires comparable education, training, skills, experience, effort, and responsibility, and is performed under comparable working conditions."

The EEOC would be required to carry out a program of education and to undertake and promote research on the development of equitable job evaluation techniques. The bill defines equitable job-evaluation technique as: "a job-evaluation technique which, to the maximum extent feasible, does not include components for determining the comparative value of a job that reflect the sex, race, ethnicity, age, or disability of the employee."

The EEOC would be required to develop and implement a program for providing technical assistance to employers requesting assistance to eliminate discriminatory wage-setting practices.

The EEOC would have to provide for the conduct of a study of wage-setting practices within or between the Federal Govenment's position-classification systems and the job-grading system by a private consultant selected upon recommendation of a nine (9) member advisory committee, six (6) of whom are to be representatives from labor organizations. The study is to use an "equitable job-evaluation technique" to determine whether any discriminatory wage-setting practices exist. The study is to be completed within 18 months. The EEOC is then required to submit a report on the study's findings to the President and the Congress. The report is to include any recommendations for statutory changes or administrative action which is considered necessary to effectuate the purpose of the Act.

The Secretary of Labor (the Office of Federal Contract Compliance Programs) would be required to publish in the Federal Register proposed guidelines for all contractors to identify and eliminate discriminatory wage setting practices. The Secretary of Labor is to submit to the President and the Congress a detailed report on the activities of the Office of Federal Contract Compliance Programs.

Each Federal agency would be required to submit along with their EEO plans a review and identification of any discriminatory wage-setting practices and a plan of action to eliminate any such practices.

The EEOC is also required to submit a detailed report on its enforcement activities of the Equal Pay Act, since the transfer of authority for the Equal Pay Act in 1979. Introduced Jan. 3, 1985; referred to Committee on Governmental Affairs.

S. 519 (Evans et al.)

Federal Employee Anti-Sex-Discrimination in Compensation Act of 1985. Requires a study of the compensation and related systems in executive agencies. A Commission on Compensation Equity would be established to provide for a study of representative executive agencies' wage-setting practices and wage differentials. The study is to determine whether female occupations are paid lower than male occupations although the work performed involves equivalent skills, effort, responsibilities, qualifications, and working conditions. Within 18 months the Compensation Equity Commission is to transmit to the appropriate Committees of Congress a report on its findings and recommendations for such administrative or legislative actions as it considers appropriate. The Director of the Office of Personnel Management shall comment on the report and specify the Director's plan and timetable to carry out each of the Commission's recommendations.

The Commission on Compensation Equity is to be composed of nine members who have extensive knowledge and technical expertise in the subject area. The Commission on Compensation Equity shall hire a consultant to conduct the study. Introduced Feb. 27, 1985; referred to Committee on Governmental Affairs.

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MLC-056

CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING: PREHIRE AGREEMENTS AND DOUBLE BREASTING

...double breasting and prehire agreements...

Under the National Labor Relations Act (NLRA), as amended, an employer and a union in the building and construction industry may sign an agreement before the workers to be covered by the contract have been hired (prehire agreement). Prehire agreements recognize the union as the collective bargaining representative of workers and establish wages and working conditions for workers who will be hired on a construction site. Over the years, however, the National Labor Relations Board (NLRB) and the courts have allowed employers to repudiate their prehire agreements. In addition, the building and construction employers have established nonunion subsidiaries (double breasting) and then diverted bargaining unit work to the nonunion (open shop) enterprise. NLRB and court decisions enable construction contractors to set up subsidiary union and nonunion companies. The building and construction unions claim that these decisions ignore the congressional intent of the NLRA's special provisions for collective bargaining in the industry and the unique characteristics of the industry.

H.R. 281 and S. 2181, introduced in the 99th Congress, are intended to reverse these NLRB and court decisions. The bills would amend the NLRA to include a definition of employer designed to end the practice of "double breasting" and elevate prehire agreements to majority bargaining contracts.

LEGISLATION

H.R. 281 (Clay)/S. 2181 (D'Amato)

Construction Industry Labor Law Amendments of 1985. Amends the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry. Adds to the definition of employer in section 2(2) of the Act a definition of employer in the construction industry designed to end the practice of "double breasting." Adds a new sentence specifying that where there is ". . . direct or indirect common ownership, management or control," a construction contractor "shall be deemed a single employer." Under the duty to bargain provision section 8(d) adds a proviso that bargaining agreements are to be applied within a geograhically wide area of that employer. Also amends section (f) of the Act by adding that a section 8(f) agreement (prehire agreement) imposes the same obligations as an agreement made by Section 9(a) majority representative; and that the NLRB must conduct a 9(c) election before an employer can repudiate an agreement. H.R. 281 introduced Jan. 3, 1985; referred to Committee on Education and Labor. Subcommittee hearings held May 21, 1985. Forwarded to full committee on June 26, 1985. Ordered to be reported (as amended) on July 23, 1985. Reported to House (as amended) on Oct. 17, 1985 (H.Rept. 99-311) and passed by the House, with additional amendments, on Apr. 17, 1986. One amendment modified the definition of a single employer to require that *substantial* common ownership, management, or control exist. The other amendment provided that H.R. 281 would not apply to ongoing construction projects until one year after the bill is enacted into law. S. 2181 introduced Mar. 11, 1986; referred to Committee on Labor and Human Resources.

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IB85177

MLC-057

THE DAVIS-BACON ACT AND THE COPELAND ANTI-KICKBACK ACT

...labor standards protections in Federal contract construction...

The Davis-Bacon Act of 1931 (as amended) provides for payment of the locally prevailing wage to workers engaged in construction work, under contract, for the Federal Government. Critics of the Act argue that it has outlived its usefulness and that it has an inflationary impact, hampers competition, and is extremely difficult to administer. Supporters argue that it prevents unfair competition, serves to stabilize the construction industry, and helps to insure a higher quality of craftsmanship.

During the 99th Congress, the Davis-Bacon Act has received extensive consideration and has been debated on the floor of both the House and the Senate on several occasions. A number of rollcall votes took place on the issue.

At least since the 1950s, the Davis-Bacon Act has been the subject of reform/repeal efforts by certain industry and employer groups and by some economists. That pattern has continued into the 99th Congress with legislation offered to amend the Act to weaken its impact, to repeal the Act outright, or to exempt certain segments of public construction from coverage under the Act. These efforts, as in prior years, have sparked a defense of the Act by worker/trade union groups.

In its present form, the Davis-Bacon Act requires that construction contracts entered into by the Federal Government specify minimum wages to be paid to the various classes of laborers and mechanics working under those contracts. "Minimum wages" are defined by the Act as those determined by the U.S. Secretary of Labor to be prevailing in the locality of the project for similar crafts and skills on comparable construction. The Act covers direct Federal construction, alteration, or repair of public buildings or public works, including painting and decorating, where the contract is more than $2,000, and applies to such contracts entered into by all agencies of the Federal Government and the District of Columbia. In addition, the Davis-Bacon "principle" of requiring payment of locally prevailing wage rates has been written into more than 50 program statutes at the Federal level. Further, some States have enacted "little Davis-Bacon" Acts within their respective jurisdictions.

In 1934, the related Copeland Anti-Kickback Act was adopted. During the 1930s, there had been allegations that employers formally paid the prevailing wage as required under the Davis-Bacon Act but, then, required "kickbacks" of portions of that wage from their employees. The Copeland Act (as administered) requires weekly reporting of wages actually paid and an affirmation from employers that any deductions from wages due to employees are proper.

Opponents of the Davis-Bacon Act argue, among other concerns, that it is inflationary, that it is difficult to administer and has frequently been inequitably administered, and that it hampers competition. Besides, they point out, Congress has provided a far broader wage floor with the enactment of the Fair Labor Standards Act in 1938. Thus, they suggest, the Davis-Bacon Act is no longer needed. *Defenders* hold that it prevents cutthroat competition from "fly-by-night" firms that undercut local wages and working conditions, that it serves to stabilize the industry -- an advantage alike to workers and to construction industry employers -- and that it tends to assure the consuming agency of better craftsmanship and a higher quality of work. Repeal or weakening of the Act, they suggest, would adversely affect apprenticeship programs in the construction industry -- to the disadvantage of minority and women workers who are entering the apprenticeable crafts in growing numbers.

Extensive hearings were conducted concerning operation of the Davis-Bacon Act both during the 96th and 97th Congresses and numerous bills to amend or to repeal the Act were introduced. None of the proposed legislation, however, was adopted. During the 98th Congress, legislation continued to be offered but much of the focus of reform/repeal effort shifted to the Department of Labor which, through the rule-making process, proposed major changes in the administration of the Act.

In the summer of 1982, the Department of Labor issued proposed new regulations governing the implementation of the Act. Legal challenges followed with appeals and related judicial processes continuing through the last weeks of 1984. In summary, the new regulations provide: *first*, that the present rule for calculating prevailing wage rates be replaced (sustained by the courts); *second*, that the concept of locality for wage determination purposes be more narrowly defined and thus restrict the importation of urban wage rates to rural counties (sustained by the courts); *third*, that Federal or federally assisted projects not be included within the data base for wage calculation purposes (sustained by the courts); *fourth*, that the use of "helpers" on Davis-Bacon projects be liberalized (rejected by the courts in the form proposed); and, *fifth*, that the reporting requirements of the Copeland Act, as now administered, be significantly reduced and/or simplified (rejected by the courts).

Increasingly, legislative interest has come to focus upon the Department's proposed regulatory reforms --

though some Members have added other revisions as well. Some critics of the Act suggest that it may be important to codify by statute the changes already effected through the rule-making process in order to prevent a future Secretary of Labor from using the same rule-making process to restore past practice. Others suggest that the regulatory reforms are insufficient and still hope to effect total change through repeal of the Act.

H.R. 472, introduced early in the 99th Congress by Representative Stenholm, with numerous co-sponsors, basically would codify the rule changes that the Department of Labor had proposed (including those rejected by the courts). In addition, the Stenholm bill would increase the dollar volume threshold for activating Davis-Bacon coverage from the present $2,000 to a proposed $1,000,000. S. 1005, introduced by Senator Nickles, is of narrower focus than the Stenholm bill but similarly raises the dollar volume threshold to $1,000,000. H.R. 73 and H.R. 675, offered respectively by Representatives Crane, and Holt, would totally repeal the Davis-Bacon Act and strike the Davis-Bacon provisions of the various Federal program statutes. H.R. 474, proposed by Representative Walker would allow the head of any Federal department, agency, or establishment to "waive the requirements of any Federal law, or of any rule or regulation promulgated under any Federal law, which such department, agency, or establishment administers or enforces, if an eligible unit of general local government demonstrates that such waiver will result in a substantial increase in the level of employment which is available within the jurisdiction of such government." While the Walker bill does not mention the Davis-Bacon Act specifically, the language would seem sufficiently broad to include the Davis-Bacon and Copeland Acts -- together with an uncertain number of other statutes.

Active floor consideration of the Davis-Bacon Act has occurred several times during the 99th Congress -- among them, the following:

(a) *The National Defense Authorization Act for Fiscal Year 1986.*

As part of S. 1160, the National Defense Authorization Act for Fiscal Year 1986, significant modification of the application of the Davis-Bacon Act was proposed. On June 5, 1985, the Senate, by a vote of 49 to 48, approved "the Gramm amendment" -- a labor standards package that had been added to the bill at the suggestion of Senator Gramm during Armed Services Committee consideration. The Gramm amendment would: (a) increase the Davis-Bacon threshold, in the case of Department of Defense contracts, to $1,000,000; (b) define "prevailing wage" as that "paid to 50% of the corresponding classes of laborers, mechanics, and helpers employed on private industry projects of a character similar to the contract work" or a weighted average of such wages; and (c) recognize "helpers" as a regular category of laborer for Davis-Bacon purposes. *The Gramm amendment also amends the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act* to require that overtime wage rates (time-and-one-half of the worker's regular rate) be paid, in the case of contract work performed for the Department of Defense, only for hours worked in excess of 40 per week rather than the current standard of eight hours per day -- thus allowing for the introduction of compressed scheduling by employers without any corresponding requirement that overtime rates be paid. No provision corresponding the the Gramm amendment was included in the House version of this legislation and, therefore, final adjustment was left to a House-Senate conference.

In mid-July, the conferees commenced consideration of the defense authorization legislation, concluding their deliberations on July 25th. With respect to the Davis-Bacon provisions, the House prevailed -- the Senate language modifying the prevailing wage statute being dropped from the bill. Thus, Davis-Bacon coverage for defense construction was preserved. On July 30, 1985, the Senate agreed to the conference report by a vote of 94 yeas to 5 nays.

The House took no action prior to the August recess and delayed consideration of the legislation well into the fall. When the House took up the conference report on Oct. 29, 1985, there was no specific vote on the Davis-Bacon issue (already deleted from the legislation) or on that of Walsh-Healey, while approval of the action of the conferees came on a voice vote. The bill was signed into law on Nov. 8, 1985 (P.L. 99-145). The Davis-Bacon Act remained unchanged. (*Congressional Record*, Oct. 29, 1985 and Nov. 12, 1985.)

However, the Gramm proposal had also called for amendment of the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act as they might relate to Department of Defense contracts. The conferees, in a technical parlimentary maneuver, deleted the language of the Gramm amendment in this respect and then, with some modification, added the language of S. 1105. The latter bill, introduced by Senator Armstrong and already approved by the Senate Committee on Labor and Human Resources, went further than the Gramm proposal. The Armstrong language, now part of the conference report on S. 1160, would eliminate the 8-hour daily pre-overtime pay standard from *all* Federal contracts -- not just defense contacts and not just those ordinarily covered by the Walsh-Healey Act. Thus, Thus, the action of the conferees will have a potential impact upon Federal contract workers in manufacturing, the service trades and construction alike.

(b) *The Military Construction Appropriations, 1986*

On Nov. 7, 1985, the Senate took up consideration of H.R. 3327, appropriations legislation for military construction for FY86. As reported, the bill contained a provision dealing with the Davis-Bacon Act which, like the defense authorization legislation (S. 1160), chose to amend the Act rather than to attempt its repeal outright. The amendment, here, would have applied only with respect to defense-related construction.

As with the defense authorization legislation, Senator Kennedy objected to the committee amendment, arguing in this instance along procedural lines. The Senator added, however:

". . . we took this same measure to conference on the DOD authorization and it was flatly rejected by our colleagues from the House. We were able to make some reforms in the Walsh-Healey Act . . . . *In return for those changes, we agreed not to amend Davis-Bacon.* This was a long and tough negotiation that produced a compromise. I believe that [this] amendment is a retreat from that agreement and will be just as forcefully resisted by the House." (Emphasis added.)

Senator Kennedy sought a ruling from the chair on the issue of germaneness. The question was submitted to a vote and, with 45 yeas to 49 nays, the committee language was ruled not to be germane. A motion to reconsider was laid on the table, and the Davis-Bacon Act survived intact. (*Congressional Record*, Nov. 7, 1985.)

(c) *The National Defense Authorization Act for Fiscal Year 1987*

As noted above, when confronted with proposed changes in the Davis-Bacon Act and the Walsh-Healey Act within the context of the National Defense Authorization legislation, Congress compromised -- significantly amending the Walsh-Healey Act while retaining the Davis-Bacon Act unchanged.

During the second session of the 99th Congress, the National Defense Authorization legislation was again used as a vehicle for revision of Federal labor standards statutes. When the Senate Committee on Armed Services reported S. 2638, the National Defense Authorization Act for Fiscal Year 1987, it contained language suggested respectively by Senators Gramm and Humphrey that would have modified (a) the Davis-Bacon Act, and (b) the McNamara-O'Hara Service Contract Act.

Again, there was compromise. On the floor (Aug. 8, 1986), Senator Kennedy offered a two-part amendment that would have stricken the Davis-Bacon (Gramm) and Service Contract Act (Humphrey) language. By a vote of 62 yeas and 34 nays, the Senate agreed to drop the language amending the Service Contract Act (that statute remaining unchanged). This was followed immediately by a vote of 44 yeas to 51 nays to defeat the second Kennedy amendment and, thus, to leave in S. 2638 the language amending the Davis-Bacon Act.

The effect of the Senate vote, if it is sustained in House/Senate conference, would be to raise the threshold for Davis-Bacon coverage *as it applies to construction contracts awarded by the Department of Defense* from the present level of $2,000 to $250,000. It would have no direct impact for non-defense contracts. (*Congressional Record*, Aug. 8, 1986, p. S10826-S10837.)

The House bill (H.R. 4428) contained no comparable language. However, the issue came to the House floor on Aug. 15, 1986, through a pair of amendments offered by Representatives Hawkins and Dickinson. The Hawkins amendment proposed a threshold increase for Davis-Bacon to $25,000 where defense contracts for construction were concerned. The Dickinson proposal paralleled the Senate action calling for a threshold of $250,000. By a vote of 167 yeas to 244 nays, the House rejected the Dickinson amendment. Thereafter, by a vote of 406 yeas to 5 nays, the Hawkins amendment was adopted. The issue remains to be resolved through conference between the House and Senate.

The Hawkins amendment deals only with defense construction contracts. It would raise the Davis-Bacon threshold from $2,000 (as is currently provided for) to $25,000 -- but this would only apply to contracts awarded under the 1987 authorization. Thereafter, absent further action by the Congress, the threshold would revert to the $2,000 figure. *However*, during the course of floor debate, House Labor Standards Subcommittee Chairman Murphy promised to hold general oversight hearings on the Act early in September 1986. In addition, Murphy suggested that legislation projecting "resonable reform" would reported for consideration by the 100th Congress early in 1987. (*Daily Labor Report*, Aug. 18, 1986, p. A8-A9.)

LEGISLATION

P.L. 99-145, S. 1160

Authorizes appropriations for the military functions of the Department of Defense and prescribes personnel levels for the Department for FY86, authorizes certain construction at military installations for FY86, and for other purposes. Introduced May 16, 1985; referred to Committee on Armed Services. Passed Senate, amended, June 5, 1985. House-Senate conferees, on July 25, issued their report, the Senate voting to accept the conference report on July 30, 1985. Conference report on S. 1160 accepted by House Oct. 29, 1985. Signed into law Nov. 8, 1985.

H.R. 73 (Crane)
Repeals the Davis-Bacon Act, and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Education and Labor.

H.R. 474 (Walker)
Contains provisions "[t]o permit localities with severe unemployment to increase employment by obtaining waivers of Federal laws [presumably including the Davis-Bacon Act] and regulations which limit employment opportunities." Introduced Jan. 3, 1985; referred to Committee on Government Operations.

H.R. 472 (Stenholm)
Contains provisions"[t]o amend the Davis-Bacon Act and related statutes in order to provide new job opportunities, effect significant cost-savings on Federal construction contracts, promote small business participation in Federal contracting; to reduce unnecessary paperwork and reporting requirements; to clarify the definition of prevailing wages, and for other purposes." Introduced Jan. 3, 1985; referred to Committee on Education and Labor.

H.R. 4428 (Aspin et al.)
Authorizes appropriations for military functions of the Department of Defense, and for other purposes. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Called up for floor consideration Aug. 4, 1986. Passed House, Aug. 15, 1986.

S. 1005 (Nickles)
A bill to amend the Davis-Bacon Act "to modify the provisions of such Act prescribing the minimum wages to be paid laborers, mechanics, and helpers employed on public construction projects, and for other purposes." Introduced Apr. 25, 1985; referred to Committee on Labor and Human Resources.

S. 2638 (Goldwater)
Authorizes appropriations for military functions of the Department of Defense, and for other purposes. A committee bill developed by the Senate Committee on Armed Services and reported July 8, 1986. Floor consideration commenced Aug. 1, 1986. Passed Senate, Aug. 9, 1986.

William G. Whittaker

MLC-058

THE FAIR LABOR STANDARDS ACT

...wages, hours, and conditions of work...

The Fair Labor Standards Act of 1938 (FLSA), as amended, is the basic Federal statute dealing with minimum wages, hours of work, overtime pay, child labor, "equal pay for equal work," and related subjects. The intent of the Act is to eliminate "labor conditions detrimental to the maintenance of minimum standards of living necessary for the health, efficiency and general well-being of workers."

The FLSA was last subjected to general amendment in 1977. However, numerous bills are introduced in each Congress -- including the 99th Congress -- which would alter the Act. Further, the FLSA has been, in recent years, a focal point of administrative reform and of legislation.

Among FLSA-related issues that may receive consideration during the second session of the 99th Congress are the following:

(a) *Should the Federal Minimum Wage Be Increased?* The Federal minimum wage for covered workers, currently $3.35 per hour, is fixed by statute. It reached the $3.35 per hour level in January 1981 and will remain at its present level until the Congress acts to change it.

Should the minimum wage be increased? Should future increases in the Federal minimum rate be made automatic through an indexation arrangement? Since minimum wage workers are less likely than other employed persons to have a significant fringe benefit package, should a portion of the value of an average fringe benefit package be considered when calculating minimum wage scales?

In the 98th Congress, legislation was introduced by Representative Biaggi that would have increased the minimum wage to $4.15 per hour. No action was taken on the Biaggi proposal.

In the 99th Congress, several bills have been introduced that would increase the Federal minimum wage, some providing an indexation formula. Among these are H.R. 4227 (Kleczka), H.R. 4323 (Williams), and H.R. 4493 (Biaggi). Conversely, H.R. 1448 (Armey) would repeal Sections 6 and 7 of the Fair Labor Standards Act in their entirety -- that is, totally eliminating the minimum wage and overtime pay requirements of the Act.

(b) *The Sub-Minimum Wage.* At least since the late 1960s, there have been efforts to create a general subminimum wage for youth and student workers. Should such a reduced wage option, described by proponents as a "youth opportunity wage," be adopted? Should a similar "opportunity" be extended to other groups who suffer labor market disadvantage -- e.g., to women, to senior citizens, to minorities? Youth subminimum wage bills introduced in the 99th Congress include H.R 1811 (Lott), S. 797 (Hatch), and H.R. 567 (Campbell).

(c) *Wage Treatment of the Blind and Handicapped.* Currently, under Section 14(c) of the FLSA, blind and handicapped workers employed in sheltered workshops) may, under certification by the Secretary of Labor, be paid a reduced wage generally commensurate with their abilities and productivity. Should this wage arrangement be revised? Are sight-impaired persons appropriately included within the category of "handicapped" for special wage treatment under the FLSA? Have the regulations governing administration of the Section 14(c) program been too inflexible? Should they be tightened up?

During recent years, hearings on the various programs under Section 14(c) have been conducted by the House Subcommittee on Labor Standards (1978 and 1980) and by the Senate Subcommittee on Labor (1982). In the 98th Congress, several bills were introduced that would have amended Section 14(c) to remove the sub-minimum wage option as it applies to the blind or sight-impaired. No new legislation has been adopted, however, as a result of this activity. Representative Lloyd has reintroduced the concept in the 99th Congress with H.R. 808.

Section 14(c), in current law, attempts to set different standards for handicapped persons with varying levels of impairment. Under Department of Labor certification, persons with a moderate level of disability may be paid as little as 50% of the otherwise applicable minimum wage -- with the more severely handicapped, when employed under DOL certification, paid even less. *In the 99th Congress*, legislation (H.R. 2676) has been introduced by Representative Petri that would eliminate all Section 14(c) minimum wage requirements and provide, instead, that "each handicapped worker would be paid according to his or her individual productivity." (See *Congressional Record*, June 10, 1985, p. E2648.)

On Oct. 3, 1985, hearings on the Petri bill were conducted by the House Subcommittee on Labor Standards. Chairman Austin Murphy "agreed that more latitude in the administration of workshop shelters may be necessary" but noted that handicapped workers could end up "getting paid 'next to nothing' for their work and essentially be reduced to being 'slaves.'" A Department of Labor spokesperson noted that the Administration supports the goal of this legislation" and will work with the subcommittee and affected groups during the legislative process." At large, industry/employer witnesses tended to support the initiative; the spokesperson for the workers strongly opposed it. (BNA/DLR, Oct. 4, 1985, p. A/10-A/11 and D/1-D/6.)

(d) *The Shorter Workweek*. Under the FLSA, for covered workers, hours worked in excess of 40 in any calendar week must be compensated for by overtime pay at the rate of one and one-half times (time-and-a-half) the worker's normal hourly rate. The intent of Congress, when enacting the overtime pay provisions of the FLSA, was to reduce the standard workweek to not more than 40 hours by imposing a penalty upon employers. Since 1938, however, an increasing proportion of the compensation package has been shifted to fringe benefits with the result that "time-and-a-half" may no longer constitute a serious disincentive to overtime work.

On July 9, 1985, Representative Conyers introduced H.R. 2933, a bill designed: (a) to increase the overtime compensation requirements of the Fair Labor Standards Act from "time-and-a-half" to "double time;" (b) to reduce the standard pre-overtime workweek under the FLSA from 40 hours to 32 hours (to be phased in over time); and (c) to prohibit the assignment of overtime hours of work without the prior consent of the affected workers. Similar proposals have been introduced by Mr. Conyers in each Congress since the 95th. Hearings on the issue were conducted by the House Subcommittee on Labor Standards (October 1979). The proposal was reviewed by the Federal Minimum Wage Study Commission (1981). No action has yet been taken on H.R. 2933 of the 99th Congress.

(e) *Industrial Homework*. Under Section 11(d) of the FLSA, the Secretary of Labor is authorized to regulate industrial homework. Since the early 1940s, such home production has been banned in several specific fields. Late in the Carter Administration, the Department commenced a review of its long-standing ban at the urging of home knitters. During the Reagan Administration, a lifting of all restraints upon home production has been proposed. This latter initiative sparked a joint industry/labor challenge to the lifting of the ban and the introduction of legislation to remove the discretionary power of the Secretary to impose such a ban in the future. Bills introduced in this Congress include S. 665 (Hatch) and H.R. 2815 (Armey).

On Feb. 26, 1986, the House Committee on Government Operations, Employment and Housing Subcommittee, conducted hearings on home-based clerical work. The Subcommittee explored the issue of labor standards enforcement for home-based workers and discussed the social implications of this mode of employment. The report of findings was issued by the Committee on July 21, 1986, under the title: *Home-Based Clerical Workers: Are they Victims of Exploitation*?

(f) *The Garcia Case*. During the 1960s and 1970s, in steps, State and local public employees were brought, by the Congress, under the provisions of the Fair Labor Standards Act. Such coverage has been the subject of extended litigation, being sustained in *Maryland v. Wirtz* (1968), partially set aside in *National League of Cities v. Usery* (1976), and reaffirmed in *Garcia v. San Antonio Metropolitan Transit Authority* (1985). Various affected employer groups (public employers) have urged that Congress rethink its position on the issue. (See separate entry for further details.)

(g) *Child Labor*. "Oppressive" child labor in the United States was substantially outlawed with the enactment of the FLSA in 1938 and the development of regulations appropriate for its implementation. (This is not to suggest that children no longer work nor that all issues of controversy bearing on child labor, have been eliminated.) What constitutes "oppressive" (except in the case of mining and manufacturing industries) and when work is "hazardous" or when children can be employed without interfering with their schooling and under conditions that "will not interfere with their health and wellbeing," however, has been largely left to the rule-making process.

On July 16, 1982, the Department of Labor proposed new regulations governing child labor and the employment of certain student workers, soliciting comment. The regulations, which the Department viewed as simply modernizing existing restraints, provoked sharp criticism in Congress and from various other interested parties. The House Subcommittee on Labor Standards conducted hearings on the proposals during the summer of 1982. Since January 1983, the Department has had the proposed regulations under review. When revised regulations may appear is not entirely clear.

In an unrelated action, the National Park Service proposed deletion from its regulations of restraints upon the employment of child workers (aged 14 to 16 years) by concessioners in the national parks. (*Federal Register*, May 9, 1985, p. 19548.) Comment was solicited through June 10, 1985, sparking a sharp dissent from the AFL-CIO. Review of the comments received is continuing.

(h) *Other FLSA-Related Concerns.* Although not triggering direct labor legislation, a variety of issues related to the Fair Labor Standards Act have attracted attention. These issues include: the employment of children of 10- and 11-years of age as hand harvest workers in agriculture, "equal pay," the implications of labor standards for global economic relationships, and the development of more effective procedures for the enforcement of FLSA provisions.

LEGISLATION

[NOTE: Legislation concerning overtime pay for State and local government employees is treated in a separate entry under the Garcia Decision.

H.R. 567 (Campbell)
Amends the Fair Labor Standards Act of 1938 "to provide a special minimum wage for the employment for limited periods of time of youth age nineteen and under and to broaden the authority for the employment of full-time students at a special minimum wage." Introduced Jan. 22, 1985; referred to Committee on Education and Labor.

H.R. 808 (Lloyd)
Amends the Fair Labor Standards Act of 1938 "to provide that blind persons may not be employed at less that the applicable minimum wage under that Act." Introduced Jan. 30, 1985; referred to Committee on Education and Labor.

H.R. 1448 (Armey)
Amends the Fair Labor Standards Act by deleting Sections 6 (minimum wage) and 7 (overtime pay) in their entirety. Introduced Mar. 6, 1985; referred to Committee on Education and Labor.

H.R. 1811 (Lott)
Authorizes an employer "to pay a youth employment opportunity wage to a person under twenty years of age from May through September" and for other purposes. Introduced Mar. 28, 1985; referred to Committee on Education and Labor.

H.R. 1932 (Armey)
Minority Opportunity Restoration Act of 1985. Creates a "youth employment opportunity" wage, and for other purposes. Introduced Apr. 3, 1985; referred jointly to Committees on Ways and Means, Banking, Finance and Urban Affairs, the Judiciary, and Education and Labor.

H.R. 2544 (Wyden)
Directs the Attorney General "to establish a clearinghouse for information relating to criminal practices in connection with certain employment of youth, to require active Federal investigation and prosecution of such practices in violation of Federal law, and for other purposes." Introduced May 16, 1985; referred to Committee on Judiciary.

H.R. 2676 (Petri)/S. 2148 (Nickles et al.)
Amends the Fair Labor Standards Act of 1938 "to require that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor." H.R. 2676 introduced June 5, 1985; referred to Committee on Education and and Labor. S. 2148 introduced Mar. 6, 1986; referred to Committee on Labor and Human Resources.

H.R. 2815 (Armey)
Amends the Fair Labor Standards Act of 1938 "to facilitate industrial homework, including sewing, knitting, and craftmaking." Introduced June 10, 1985; referred to Committee on Education and Labor.

H.R. 2933 (Conyers)
Raises the overtime pay requirements of the FLSA, to reduce the standard workweek under that Act, and for other purposes. Introduced July 9, 1985; referred to Committee on Education and Labor.

H.R. 4227 (Kleczka)
Amends the Fair Labor Standards Act to increase the minimum wage, setting new statutory wage levels. Introduced Feb. 25, 1986; referred to Committee on Education and Labor.

H.R. 4323 (Williams)
Amends the Fair Labor Standards Act to increase the minimum wage and establishes an indexation formula for future rate increases. Introduced Mar. 5, 1986; referred to Committee on Education and Labor.

H.R. 4493 (Biaggi)
Amends the Fair Labor Standards Act to increase the minimum wage and establishes an indexation formula for future rate increases. Introduced Mar. 25, 1986; referred to Committee on Education and Labor.

S. 665 (Hatch)
Amends the Fair Labor Standards Act of 1938 "to facilitate industrial homework, including sewing, knitting, and craftmaking, and for other purposes." Introduced Mar. 14, 1985; referred to Committee on Labor and Human Resources.

S. 797 (Hatch)
Authorizes an employer "to pay a youth employment opportunity wage to a person under twenty years of age from May through September" and for other purposes. Introduced Mar. 28, 1985; referred to Committee on Labor and Human Resources.

William G. Whittaker

MLC-059

FAIR LABOR STANDARDS ACT: TREATMENT OF STATE AND LOCAL GOVERNMENT EMPLOYEES

...costs of paying overtime to government workers...

On Feb. 19, 1985, the Supreme Court in *Garcia* v. *San Antonio Metropolitan Transit Authority* ruled that the Congress could constitutionally apply the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) to State and local workers. This decision, in effect, overturned the Court's 1976 decision in the *National League of Cities* v. *Usery*. Thus, for the first time since the 1974 amendments to the FLSA were enacted, most State and local government workers were covered under the Act. How the new decision would affect the pay, hours, and overtime of State and local government workers and what impact this could have on State and local budgets immediately became an issue. In early November 1985, after consultation with representatives from both State and local governments and State and local workers, Congress passed the Fair Labor Standards Act Amendments of 1985.

Section 7(a) of the Fair Labor Standards Act (FLSA) mandates that premium overtime wages (1 and 1/2 times the regular hourly rate) be paid after 40 hours in a workweek. Prior to the 1974 amendments to the FLSA, most State and local nonsupervisory employees were specifically exempted from the 7(a) provisions. Even though these workers became covered in 1974, two special concessions were made for fire fighters and law enforcement personnel because of their unique working conditions. Nevertheless, State and local government opposition was strong and just before coverage was to begin, the Supreme Court stayed the expanded coverage provisions. Later, in 1976, the Supreme Court struck down as unconstitutional the application of the FLSA's minimum wage and overtime provisions to State and local government employees working in traditional government functions (*National League of Cities* v. *Usery*). Thus, these workers never came under the FLSA.

In February 1985, however, the Supreme Court overturned its 1976 decision (*Garcia* v. *San Antonio Metropolitan Transit Authority*). Thus, most State and local employees once again became subject to the provisions of the FLSA.

The February 1985 Supreme Court decision brought strong and immediate opposition from State and local government officials. Most of their concerns focused on the issue of overtime, particularly for police and fire fighters. Many of these workers were already receiving overtime pay in the form of compensatory time off (comp time). The FLSA, however, strongly limits the payment of overtime in the form of comp time, but does permit it until the maximum number of hours stipulated in the Act is reached. Other issues of concern included the treatment of volunteers to State and local governments and joint employment.

The potential for added costs to State and local government budgets clearly existed. But until the State and local governments became familiar with the exemptions and definitions of the FLSA, accurate cost estimates could not be accurately prepared. Any analyses which held current working conditions constant were a "worse case" estimate and should be understood as such. On the other hand, those analyses which examine only union contracts and assume that most workers have similar provisions were preparing a "best case" estimate. DOL has estimated that the overtime and minimum wage coverage extended by the Garcia decision to State and local employees would have cost State and local governments about $1,129 million. However, the 1985 FLSA amendments reduced this cost by $517 million, resulting in a $612 million net cost. This is less than one-half of one percent of the 1984 annual wage bill of State and local governments for non-supervisory employees (those covered by the Act).

LEGISLATION

P.L. 99-150, H.R. 3530/S. 1570 (as amended)
Fair Labor Standards Act Amendments of 1985. Amends the FLSA to allow covered State and local workers to receive compensatory time off in lieu of cash compensation as long as (1) comp time is at the rate of one and one half hours for each FLSA overtime hour worked, and (2) comp time conforms to applicable provisions of a collective bargaining agreement, a memorandum of understanding, or any other

agreement between the public agency and representatives of its employees made prior to any overtime work done. Workers engaged in public safety, emergency response, or seasonal work may accrue up to 480 hours of comp time; all other covered workers up to 240 hours of comp time, after which cash compensation must be paid. Requests for use of comp time are to be granted within a reasonable period if such use "does not unduly disrupt the operations of the public agency." Comp time taken during the work week or work period is not to be considered as hours worked for the purpose of computing overtime. If an employee terminates employment, accrued comp time will be paid in the form of cash at a rate not less than (1) the average regular rate received by the employee during the last 3 years of employment or (2) the final regular rate received by an employee, whichever is higher.

State and local public safety employees, who on an optional basis undertake special detail work, will be considered as employed by a separate employer for the purposes of calculating overtime even if their primary employer requires that the second employer hire its public safety employees for particular work or is in any other way involved. State and local government employees who at their option work part-time on an occasional and sporadic basis in a different capacity from their primary employment, will be considered as working for a separate employer for the purposes of calculating overtime under the FLSA. Even if a mutual aid agreement exists, a State or local employee may volunter his or her services in another jurisdiction without the primary employer being considered a joint employer. Employees of a public agency who voluntarily substitute for a co-worker engaged in the same activity shall not be considered as working overtime for FLSA purposes. A person who volunteers his/her services to a State or local government will not be considered as an employee even if expense money, reasonable benefits, or a nominal fee is paid by the State or locality.

Employees of a State or local legislative body, except employees employed by a State or local library or those subject to the general civil service laws of the State or locality, are exempt from the overtime provisions of the FLSA.

An employer may not discriminate against an employee with respect to the employee's wages or other terms or conditions of employment because the employee asserted coverage under the overtime provisions of the FLSA.

The effective date for these amendments is Apr. 15, 1986. However, the payment of monetary overtime compensation may be deferred until Aug. 1, 1986, for FLSA overtime hours worked after Apr. 14, 1986.

Any collective bargaining agreement in effect on Apr. 15, 1986, which permits comp time in lieu of cash compensation for overtime may remain in effect until its expiration date unless otherwise modified. However, such comp time must be at the 1 1/2 times rate and subject to the caps discussed above.

Public agencies are shielded from liability for FLSA overtime violations before the effective date of Apr. 15, 1986. Territories and possessions of the United States are similarly shielded for minimum wage violations prior to Apr. 15, 1986.

Signed into law Nov. 14, 1985.

Dennis M. Roth; Vincent E. Treacy
IB85195

MLC-060

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES

...flexible option permanently extended...

Following preliminary consideration in several Congresses, the "Federal Employees' Flexible and Compressed Work Schedules Act" was adopted in 1978 and signed into law (P.L. 95-390) by President Carter. The measure was to have effect through a 3-year period during which Federal executive branch employees (and those of certain other agencies) were to be permitted to experiment with alternative work scheduling (AWS) under the close monitoring of the Office of Personnel Management (OPM). On July 23, 1982 (P.L. 97-221), the experimental program was extended for a second 3-year period during which further monitoring was to take place. In the 99th Congress, legislation permanently to extend the flexible hours program (H.R. 1534) was quickly adopted by the House. After considerable delay in the Senate, the measure was finally adopted (Dec. 11, 1985) and signed into law on December 23 (P.L. 99-196).

Since the 1960s, there has developed a growing interest in alternative patterns of work. The impetus for this change in work structures does not seem to have originated within the traditional labor/management community; and, indeed, both organized labor and management appear to have evidenced initial skepticism about the efficacy of such programs. The spark, rather, seems to have come from diverse elements: the legacy of protest growing out of the student activism of the 1960s; the "blue-collar blues" of the 1960s and 1970s and the resultant call for "work humanization;" high and sustained levels of involuntary joblessness; and other considerations. But perhaps the main push for alternative patterns of work has come from women's groups who have argued that the traditional work day prevents them from participating in the labor market during those periods when they are, or could be, free from domestic responsibilities.

Three separate approaches to work hours quickly emerged: flexible hours, compressed work scheduling (P.L. 95-390), and part-time work options (P.L. 95-437, the "Federal Employees Part-time Career Employment Act of 1978") -- i.e., overall, a variety of work hours arrangements that differ from the standard 8-hour day and 5-day week. From the beginning, advocates of these work scheduling arrangements argued that the putative advantages (happier workers, greater efficiency, increased service to the public, energy savings, higher productivity, etc.) would greatly outweigh any disadvantages, stressed by opponents, that might follow from enactment legislation -- for example, workplace confusion, inefficiency and increased costs. With P.L. 95-390, the Congress set in motion a 3-year program of experimentation designed to test these assumptions.

When the initial period of experimentation drew to a close in 1982, some doubts were expressed concerning the effectiveness of the monitoring of the various work scheduling arrangements by OPM and by the various agencies participating in the program. Both OPM and GAO issued reports on the experimental program. Results with respect to cost, efficiency, productivity, etc. were clouded by methodological difficulties and other considerations. However, there seemed, based upon the congressional hearings and media coverage of alternative hours arrangements (both those in the private and public sectors), to be evidence of a broad base of popular worker support for the concept. Thus, Congress extended the AWS program for a second 3-year period and, once again, mandated that OPM carefully review the operation of the program -- its impact for workers, for the mission of the agencies involved, and for the general public. The second period of experimentation was to terminate on July 23, 1985.

On Mar. 19, 1985, Representative Ackerman, with various co-sponsors, introduced H.R. 1534, a bill to make permanent the temporary program of flexible and compressed scheduling instituted in 1978 and extended in 1982. Hearings on the bill were conducted by the Subcommittee on Human Resources of the House Committee on Post Office and Civil Service on March 28 and April 24. In the interim the subcommittee had opportunity to review the studies and findings of OPM and GAO for the second experimental period. On May 8, the bill received approval from the full Committee. On May 20, the House suspended the rules and the bill was passed, thereafter being referred to the Senate Committee on Governmental Affairs for its consideration.

The Federal Employees' Flexible and Compressed Work Schedules legislation deals only with direct employees of the Federal Government. Where private sector workers are employed in the production of goods, *under contract*, for the Federal Government, they may be paid at a rate of not less than time-and-one-half of their regular rate of pay for hours worked in excess of eight per day -- thus, some employers argue, rendering compressed scheduling uneconomical.

During recent Congresses, there has been an effort to amend the Walsh-Healey Public Contracts Act and the Contract Work Hours and Safety Standards Act (statutes governing the hours of Federal contract employees) to eliminate their overtime pay provisions -- an effort generally opposed by organized labor and supported by the affected employers. Further, there has been some effort to link the legislative fate of the Federal Employees' Flexible and Compressed Work Schedules legislation to amendment of the Walsh-Healey Act and the related statutes. In the 99th Congress, measures to amend the public contract statutes have been introduced in both houses -- notably, H.R. 1893 by Representative Kindness and S. 1105 by Senator Armstrong, each with numerous co-sponsors.

No hearings were conducted in the Senate, the language of the House-passed measure being accepted by the Committee on Governmental Affairs. However, "for reasons unrelated to its merits," explained Senator Stevens, "we have been unable to pass a permanent reauthorization of the program under my unanimous consent request of July 11, 1985." Thus, on July 17, the Senate adopted S. 1455 (Stevens) which, as an interim device, extended P.L. 221 *until Sept. 30, 1985.* The following day, July 18, the measure was passed by the House. In neither body was there a recorded vote. The measure was signed by President Reagan, becoming P.L. 99-69 on July 22, 1985.

By adoption of S. 1455, the Congress had extended the life of the flexible schedules program -- but, only until Sept. 30, 1985. Press reports suggested that there existed in the Senate sentiment in favor of linking the Federal employees flexible hours legislation to proposed amendments to the Walsh-Healey Act and/or to a general youth sub-minimum wage bill. By mid-September, the latter prospect seemed more likely. Other interim extensions followed. Finally, on Dec. 11, 1985, the Senate passed H.R. 1534, making the flexible hours experiment permanent, the measure being signed into law on December 23 (P.L. 99-196).

LEGISLATION

P.L. 99-62, S. 1455

Amends the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 by setting a new termination date of Sept. 30, 1985. Introduced July 17, 1985, and immediately adopted; passed the House July 18. Signed into law July 22, 1985.

P.L. 99-109, H.R. 3414

Amends the Federal Employees' Flexible and Compressed Work Schedules Act, setting a new termination date of Nov.

14, 1985. Introduced Sept. 23, 1985; referred to Committee on Post Office and Civil Service. Passed House, amended, Sept. 26, 1985. Passed Senate Sept. 26, 1985. Signed into law Sept. 30, 1985.

P.L. 99-196, H.R. 1534
Amends the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 to make permanent the authority of Federal agencies to use flexible and compressed work schedules. H.R. 1534 was introduced Mar. 19, 1985; referred to Committee on Post Office and Civil Service. Committee markup held May 8. Reported May 13 (H.Rept. 99-82). Passed House May 20. Referred to Senate Committee on Governmental Affairs. Passed Senate, Dec. 11, 1985. Signed into law Dec. 23, 1985.

S. 600 (Chafee)
Extends the authority of Federal agencies to experiment with flexible and compressed work schedules under the Federal Employees' Flexible and Compressed Work Schedules Act of 1982 for an additional 3-year period or until Sept. 30, 1988. Introduced Mar. 6, 1985; referred to Committee on Governmental Affairs.

William G. Whittaker

MLC-061

THE HOBBS ACT

...controlling violence in the labor-management relationship...

The Hobbs Act of 1946, amending the Anti-Racketeering Act of 1934, makes guilty of a Federal crime anyone who "in any way or degree obstructs, delays, or affects commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose" to violate these restraints. A penalty of not more than $10,000 or imprisonment for not more than 20 years, or both, is imposed for violators.

At issue is the manner in which the Act applies to the labor-management relationship, to collective bargaining, to the taking of property (wages and benefits) from an employer as the result of a conspiracy (organization and prosecution of a strike), and to chance acts of violence or threats of violence which may occur during and be incidental to a strike.

Active congressional interest in the Act has spanned the past decade and continues in the 99th Congress. No new amendments to the Act have yet been adopted.

In the case of *United States v. Enmons et al.*, decided by the U.S. Supreme Court in February 1973, the employers contended that acts of violence incident to a strike were covered by the Hobbs Act and, thus, were a Federal crime. Also, the employers argued that wages were property within the meaning of the Act, thus potentially converting collective bargaining into extortion. The Supreme Court disagreed. It suggested a narrower interpretation resting upon the concept of a "wrongful" taking of property or violence of a more nearly personal or concerted nature. Mr. Justice Stewart, for the Court, explained:

> "... the Hobbs Act has properly been held to reach instances where union officials threatened force or violence against an employer in order to obtain personal payoffs, and where unions used the proscribed means to exact "wage" payments from employers in return for "imposed, unwanted, superfluous and fictitious services" of workers. For in those situations, the employer's property has been misappropriated."

Justice Stewart continued:

> "But the literal language of the statute will not bear the ... semantic argument that the Hobbs Act reaches the use of violence to achieve legitimate union objectives, such as higher wages in return for genuine services which the employer seeks. In that type of case, there has been no "wrongful" taking of the employer's property; he has paid for the services he bargained for, and the workers receive the wages to which they are entitled in compensation for their services."

Justice Stewart noted that if the Act were broadly interpreted, then "[t]he worker who threw a punch on a picket line, or the striker who deflated the tires on his employer's truck would be subject to a Hobbs Act prosecution and the possibility of 20 years' imprisonment and a $10,000 fine." He denied that the language of the statute placed the Federal Government "in the business of policing the orderly conduct of strikes" or justified so "unprecedented" an "incursion" by the Federal Government "into the criminal jurisdiction of the States."

Not all agreed with the views of the Court's majority in the Enmons case and, almost immediately, efforts commenced to overturn that decision through new Federal legislation. That effort has continued, now, for a decade.

In the 98th Congress, legislation to strengthen the Hobbs Act was introduced both in the House and in the Senate. Extensive hearings were conducted by the Senate Judiciary Committee, though no legislation to amend the Act was adopted.

In the 99th Congress, legislation to amend the Hobbs Act was again introduced. The proposals included: H.R. 83 and H.R. 1719 (a different form) by

Representative Crane, S. 300 and S. 1774 by Senator Grassley (a new version of the earlier bill), and S. 479 by Senator Denton. The several bills were referred to the House and Senate Committees on the Judiciary. The Crane proposal is currently pending in the House Subcommittee on Criminal Justice, no action having been taken. In the Senate, the Hobbs Act amendments are pending before the full Committee, no hearings having been conducted.

On Apr. 14, 1986, Senator Dole moved that the Senate proceed to the direct consideration of S. 1774. At the same time, to avert a possible filibuster on the Hobbs Act amendments, Senator Dole also introduced a motion of cloture. Extended debate, partly substantive and partly procedural, followed. On April 16, the motion for cloture was defeated by a vote of 44 yeas to 54 nays. Thereafter, Senator Dole, by unanimous consent, withdrew his motion for Senate floor consideration of S. 1774. No further action was immediately scheduled.

The Senate Committee on Labor and Human Resources, however, chaired by Senator Hatch, a cosponsor of S. 300, on Feb. 27 and Mar. 26, 1985, conducted hearings on labor/management violence that focused upon the case of the Missouri-Portland Cement Company of Joppa, Illinois.

LEGISLATION

H.R. 83 (Crane)

Redefines the concept of extortion in the Hobbs Act, and for other purposes. Introduced Jan. 3, 1985; referred to Committee on Judiciary.

H.R. 1719 (Crane)

Redefines the concept of extortion under the Hobbs Act, and for other purposes. Introduced Mar. 26, 1985; referred to Committee on Judiciary.

S. 300 (Grassley)

Redefines the concept of extortion under the Hobbs Act, and for other purposes. Introduced Jan. 29, 1985; referred to Committee on the Judiciary.

S. 479 (Denton)

Prohibits "any act of violence or threat of violence in a labor dispute and any conspiracy to accomplish such act or threat and to impose criminal and civil penalties therefor." Introduced Feb. 20, 1985; referred to the Committee on Judiciary.

S. 1774 (Grassley)

Redefines the concept of extortion under the Hobbs Act, and for other purposes. Introduced Oct. 18, 1985. Called up for Senate floor consideration Apr. 14, 1986, and withdrawn from floor consideration Apr. 16, 1986.

William G. Whittaker

MLC-062

JOB TRAINING: ISSUES IN THE 99TH CONGRESS

...some budget cuts made; legislative changes pending...

The Job Training Partnership Act (JTPA) was enacted in 1982 with the support of the Reagan Administration. JTPA replaced the Comprehensive Employment and Training Act as the major Federal employment training program. For the first time since enactment of JTPA, the Reagan Administration proposed budget cuts for some JTPA components in its FY86 budget, submitted during the first half of the 99th Congress. Most notable among these proposed cuts were termination of the popular Job Corps program and sizeable reductions in the summer youth employment and dislocated workers programs. For related programs, the Administration proposed termination of the Work Incentive (WIN) program for welfare recipients and retraining authorized under the Trade Act for workers displaced by import competition. Congress rejected the Administration's proposal to terminate Job Corps, and in fact increased the Job Corps budget for FY86. However, Congress did accept reductions for the summer youth employment and dislocated workers programs under JTPA. Further, a reduction, rather than complete termination, was approved for the WIN program.

The FY86 budget for all job training programs was reduced by a further 4.3%, resulting from the budget-cutting procedures of the Deficit Control and Budget Reduction Act (known as Gramm-Rudman-Hollings). Although the Supreme Court invalidated the automatic budget-cutting process established in this Act, Congress itself approved the reductions in legislation passed after the Supreme Court decision (P.L. 99-366).

At the beginning of the second session of the 99th Congress, President Reagan submitted a budget request for FY87 that would significantly reduce, although not eliminate, the Job Corps program and the summer youth employment program under JTPA. Other JTPA programs would be maintained at approximately their FY86 levels. However, the Administration again proposed to eliminate the Work Incentive program and retraining under the Trade Act.

On June 26, the House and Senate passed the conference committee version of the concurrent resolution on the FY87 budget (S.Con.Res. 220). According to a House Budget Committee description of the resolution's assumptions, an additional $1.5 billion is assumed, above FY86 levels, for "high priority" programs including JTPA. A Senate Committee description of the resolution says JTPA funding would be increased by $344 million over the FY86 level, including $64 million for Job Corps.

LEGISLATION

P.L. 99-103, H.J.Res. 388
Government-wide continuing resolution effective until November 14 or until individual appropriations bills are enacted. Signed Sept. 30, 1985.

P.L. 99-154, H.J.Res. 441
Government-wide continuing resolution effective until December 12 or until individual appropriations bills are enacted. Signed Nov. 14, 1985.

P.L. 99-178, H.R. 3424
FY86 appropriations bill for Departments of Labor, Health and Human Services and Education. Reported by the House Appropriations Committee on September 26 (H.Rept. 99-289). Passed by full House on October 2. Reported by Senate Appropriations Committee on October 4 (S.Rept. 99-151). Passed the full Senate on October 22. Conference report (H.Rept. 99-402) passed the House on December 5 and the Senate on December 6. Signed into law on Dec. 13, 1985.

H.R. 5185 (Hawkins)
Job Training Partnership Amendments. Introduced July 17, 1986. Reported by House Education and Labor Committee on Aug. 6, 1986 (H.Rept. 99-754). S. 2069 passed in lieu of H.R. 5185 by the House on Aug. 11, 1986.

H.R. 5233 (Natcher)
FY87 appropriations for Departments of Labor, Health and Human Services, and Education. Reported by House Appropriations Committee on July 24, 1986 (H.Rept. 99-711). Passed House on July 31.

H.Con.Res. 152 (Gray et al.)
First Concurrent Resolution on the FY86 budget. Reported by Budget Committee May 20. (H.Rept. 99-133). S.Con.Res. 32 passed in lieu by the full House on May 23.

H.Res. 72 (Martinez et al.)
Sense of the House resolution stating that efforts should be made to maintain funding for the Job Corps. Introduced Feb. 21, 1985; reported by Education and Labor Committee Apr. 4, 1985 (H.Rept. 99-39).

S. 2069 (Quayle)
JTPA Amendments. Introduced Feb. 7, 1986. Reported by Senate Labor and Human Resources Committee on June 5, 1986. Passed full Senate on June 13, 1986.

S.Con.Res. 16 (Hatch et al.)
Sense of the Congress resolution stating that Job Corps should not be eliminated. Introduced Feb. 20, 1985.

S.Con.Res. 22 (Hatch et al.)
Sense of the Congress resolution stating that sufficient funds should be made available to maintain Job Corps. Introduced Feb. 27, 1985.

S.Con.Res. 32 (Domenici et al.)
First concurrent resolution on the FY86 budget. Reported by the Senate Budget Committee on Mar. 20, 1985 (S.Rept. 99-15). Passed by full Senate on May 10, 1985. Passed by the House in lieu of H.Con.Res. 152 on May 23. Conference report (H.Rept. 99-249) passed by the House and Senate August 1.

S.Res. 50 (Cranston et al.)
Sense of the Senate resolution reaffirming support for Job Corps. Introduced Jan. 24, 1985.

S.Con.Res. 220
Concurrent resolution on the FY87 budget. Conference report passed by the House and Senate on June 26, 1986.

Karen Spar

MLC-063

OCCUPATIONAL DISEASE NOTIFICATION

...new standard implemented...

In May 1986 the Occupational Safety and Health Administration implemented its "hazard communication standard." This standard required that containers of toxic substances bear labels identifying the contents and the nature of the hazards within; and that these labeled containers be accompanied by "material safety data sheets" (MSDS) providing more in-depth information on hazardousness and handling procedures for those potentially exposed.

The standard was hailed by many as a landmark since it significantly departed from OSHA's traditional substance-by-substance approach to regulating toxic substances, and set up instead a structure which would encompass all substances which are already or will ever be determined to be toxic. Some congressional observers, however, argue that OSHA' hazard communication standard does not go far enough.

Legislation has been proposed to address some or all of the issues of concern to Congress. One such measure, H.R. 1309, provides that

1. Workers be notified when the probability of their incurring occupationally related disease is 30% greater than the average for a non-occupationally exposed population.
2. A program of medical testing and monitoring for those "at risk" workers be set up. The program would be conducted at the expense of the employer.
3. Workers who are "at risk" by virtue of their previous exposures and long latency periods for various diseases, but who are no longer in the employ of that employer, would also be notified. However, these workers would be required to pay for their own medical testing and monitoring.

LEGISLATION

H.R. 1309 (Gaydos et al.)

Establishes an 8-member "Risk Assessment Board" in the Department of Health and Human Services. The objective of the Board would be to review scientific and medical studies and identify and notify in any industry working populations which have a 30% greater than normal risk of incurring occupational disease from their workplace exposures. Employers of "at risk" populations are required to pay for medical testing and monitoring. Employers may pass these costs on to former workers who are in the "at risk" group but are no longer in their employ. The Secretary of Health and Human Services shall establish 10 health centers around the country, chosen from among existing education resource centers, to provide assistance in diagnosis and treatment as well as training and assistance to physicians. Introduced July 2, 1985; referred to Committee on Education and Labor. Reported, amended, July 17, 1986 (H.Rept. 99-691).

H.R. 4793 (Petri and Jeffords)

Sets up no new programs, but expands OSHA's hazard communication program to apply to all workers, and not just workers in the manufacuturing and distribution sectors, as the initial standard has provided. Workers would not be specifically notified that they are in populations that are at increased risk of incurring occupational diseases, nor would they be guaranteed information on their specific probability or risk of incurring occupational disease from their exposures. Introduced May 8, 1986; referred to Committee on Education and Labor.

Mary Jane Bolle

MLC-064

PLANT CLOSINGS AND BUSINESS RELOCATIONS

...a recurring issue in Congress...

What, if any, Federal legislation should be passed with regard to plant closings has been a recurring congressional issue at least since 1974, ebbing and flowing with fluctuations in the business cycle and with major structural changes in various industries.

During recessions, plant closings generally increase as a decline in overall demand forces out the weaker businesses in any given industry. Structural changes in our economy, such as changes in consumer tastes, increased automation, or technological obsolescence, lead to plant closings. Increased inputs, high interest rates, and poor management also play a part in individual plant closings.

Some Members have argued Congress should pass legislation regulating plant closing so as to forewarn workers and local communities and assist them in securing employment and new industries. Others have argued that Congress should provide for Federal aid to declining industries in America to keep them alive. The Chrysler bailout was one such example of this type of aid. Still others argue that the market is best left to make its own adjustments, without assistance.

Until the passage of the Job Training Partnership Act (P.L. 97-300, Section 462) in 1983, no Federal agency was required to collect statistics on plant closings, and none had reliable overall figures. Under that Act, the Labor Department is required to begin collecting data on plant closings and to publish an annual report on plant closings, the number of workers displaced, the location of the affected firms, and the types of industries involved. Several private groups have also attempted estimates based on data of Dun & Bradstreet, a credit rating firm.

Plant closing bills in Congress (including H.R. 2847, introduced in the 98th Congress) have generally provided portions or combinations of the following: (1) protections to workers including specified periods of prenotification of a closure, unemployment compensation, retraining, job search, transfer rights, and relocation allowances; (2) Federal financial assistance to businesses threatened with closures (such assistance can include grants and preference for certain types of government contracts); and (3) financial assistance to communities facing declining revenues as a result of plant closings. Financial assistance to workers or communities would be paid either by the Federal Government or in some instances by the business closing the plant (especially if the plant is relocating to another part of the country or abroad). Monetary penalties as a percentage of tax payments are prescribed for noncompliance.

Those in favor of Federal plant closing legislation argue that (1) all employees should be relieved of some of the burdens of their unemployment, job search, and relocation expenses; (2) the responsibility now assumed by the Federal Government under the Trade Act of 1974 (P.L. 93-168), and under the Redwood Act of 1978 (P.L. 95-250), should be extended to all private industry; (3) in the case of the relocating plant, the responsible party (the relocating plant) should bear the cost of its action; and (4) some States (Maine, Wisconsin, and Michigan) and some European nations (including West Germany, Sweden, and the United Kingdom) already have plant closing laws.

Those opposing Federal plant closing legislation argue that (1) it could promote financial loss by businesses attempting to recover from several years of financial hardship (from the recession, high interest rates, and structural changes in the economy); (2) it could discourage rather than encourage industrial efficiency -- either by dragging out the plant closing after the decision has been made, in order to give employees sufficient notice; or by attempting to keep alive dying plants or industries; (3) it would tend to encourage unemployment and dependency rather than self-reliance among displaced workers; and (4) nearly half of all collective bargaining agreements already contain worker protections in case of plant closings, or restrict management's right to relocate.

For more information on the plant closing issue, see CRS IB83152, Plant Closings and Business Relocations.

LEGISLATION

H.R. 1616 (Ford, W.D. et al.)

Labor-Management Notification and Consultation Act of 1985. Contains only a few of the provisions of other earlier plant closing bills. Those provisions which are included are focused around a requirement of 3 months' prenotification. Requires businesses to provde 3 months' advance notice to employees, their union, and State and local officials before undertaking a permanent layoff of 50 or more workers. (Temporary layoffs, where employees would be recalled within 90 days, would not be covered by this legislation.) Notice may be reduced if the business demonstrates that "unavoidable business circumstances" prevent the employer from withholding the closing.

During the 90-day notification period, an employer would be required to consult in good faith with representatives of the employees and provide them with "such relevant information as is necessary for the thorough evaluation of the proposed plant closing or permanent layoff, or for the thorough evaluation of alternatives." In turn, the information disclosed to an employee representative shall be subject to protective orders issued by the Secretary of Labor to prevent the disclosure of information which could compromise the position of the employer with respect to its competitors.

Enforcement. Act would be enforced by the Department of Labor. The Secretary of Labor may seek an injunction if he believes that an employer has ordered a plant closing in violation of the Act. If the plant has actually closed, the injunction may require restoration of operations and reinstatement with back pay and related benefits where appropriate.

Employees may bring a civil action for damages if they are laid off in violation of the Act. Damages may include back pay and benefits equal to one day's pay and fringe benefits for each day of layoff in violation of the layoff period -- plus general and punitive damages. On the other hand, employers may sue for damages stemming from a violation of a protective order regarding disclosure of proprietary information.

On Nov. 14, 1985, the full House adopted an amendment to the committee-passed bill. This amendment, offered by Representative Bartlett, removed a requirement that employers must consult with unions over alternatives to plant shutdowns and in the process disclose information.

Then, on Nov. 21, 1985, the House adopted another amendment in the form of a substitute. The substitute (which limited the bill still further) was offered by Representative Jeffords with the support of Representatives William Ford and William Clay, the original sponsors of H.R. 1616.

On that same day, after adopting the substitute, the full House narrowly voted down H.R. 1616. Provisions of the substitute bill were essentially limited to: (1) a requirement of 3 months' prenotification to workers prior to plant closings, indefinite layoffs extending for longer than 6 months; and (2) an endorsement of the Secretary of Labor's National Task Force on Economic Adjustment and Worker Dislocation which is charged with analyzing costs, causes, and other issues relating to plant closings and worker dislocation.

Among other things, the substitute changed the term "*unavoidable business circumstances*" (conditions under which a plant may close before 90 days are up) to "*unforseeable business circumstances.*"

The substitute also eliminated a number of other provisions. Eliminated (in addition to the consultation provisions) were: (1) provisions for recovery of general and/or punitive damages, through a civil law suit. Thus, recovery was ultimately limited to back wages and reasonable attorney's fees; (2) coverage for temporary or seasonal workers; and (3) the triggering of notification procedures in cases where workers' hours were reduced, but no layoff occurred.

Introduced Mar. 30, 1985; referred to Committee on Education and Labor. Hearings held by Subcommittee on Labor-Management Relations May 15, June 26, 1985. Forwarded to full Committee June 26. Hearings held by Subcommittee on Employment Opportunities May 15, June 26. Forwarded to full Committee June 26. Passed the full committee July 23, 1985. Reported Oct. 29, 1985, amended (H.Rept. 99-336). Failed to pass the House Nov. 21, 1985.

Mary Jane Bolle
IB83152

MLC-065

TARGETED JOBS TAX CREDIT: ACTION IN THE 99TH CONGRESS

...fate of program depends upon tax reform's passage...

The TJTC was created by the Revenue Act of 1978 (P.L. 95-600, Sec. 321) to encourage employers to hire persons from hard-to-employ groups (i.e., economically disadvantaged cooperative education students, youth age 18-24, or Vietnam-era veterans; vocational rehabilitation referrals; individuals receiving general assistance, Supplemental Security Income, or Aid to Families with Dependent Children). For hiring a targeted group member, an employer can claim a credit of 50% the first year and 25% the second year of the first $6,000 earned annually by the TJTC-hire, subject to certain limitations. There is also a special summer credit for hiring 16-17 year olds from economically disadvantaged families. It is equal to 85% of the first $3,000 earned by the TJTC-hire within any 90-day period from May through mid-September.

Since its inception, the TJTC has been amended and extended on almost an annual basis. The Deficit Reduction Act of 1984 (P.L. 98-369, Sec. 1041) calls for the program to expire effective Jan. 1, 1986, unless extended. Both the House Ways and Means Committee and the Senate Finance Committee held hearings on the TJTC in March and November 1985, respectively. However, Congress adjourned at the end of the year without extending the program beyond its Dec. 31, 1985 expiration date.

The House Ways and Means Committee included extension and amendment of the TJTC in H.R. 3838, the tax reform legislation. The bill proposes retroactivity and a 2-year extension through Dec. 31, 1987. It also would eliminate the second year of the credit and reduce the subsidy to 40%. In addition, an employer could not claim the credit if an eligible person was employed less than 14 days. The Senate amendments to H.R. 3838 would also make the TJTC retroactive but extend it for 3 years. The second year would be eliminated, as well. The Senate version proposes that an employer could only claim the credit for eligible persons employed at least 90 days (14 days for summer youth) and who completed at least 120 hours of work (20 hours for summer youth).

On Aug. 16, 1986, the House-Senate conference committee favorably voted on a tax reform bill that would extend the TJTC program for 3 years (through Dec. 31, 1988) and make it retroactive to Jan. 1, 1986. The second year of the credit would be eliminated under the bill, leaving the subsidy equal to 40% of the first $6,000 earned. (It previously had been 50% of $6,000 earned the first year and 25% of $6,000 earned the second year.) The bill proposes a minimum employment period of 90 days and 120 hours before an employer can claim the credit for hiring a targeted individual.

LEGISLATION

H.R. 983 (Rangel)
Amends the Internal Revenue Code to revise and extend the TJTC through 1990. Increases the amount of wages which may be taken into account for the credit to $10,000 annually. Revises the definition of members of economically disadvantaged families. Introduced Feb. 6, 1985; referred to Committee on Ways and Means. Hearings held Mar. 19, 1985 by Subcommittee on Select Revenue Measures.

H.R. 3838 (Rostenkowski et al.)
See text above.

S. 1250 (Heinz)
Amends the Internal Revenue Code to revise and extend the TJTC through 1990. Changes the requirements for membership in the vocational rehabilitation referral, SSI, and general assistance target groups. Introduced June 6, 1985; referred to Committee on Finance. Hearings held Nov. 22, 1985 by Subcommittee on Savings, Pension, and Investment.

Linda LeGrande
IB86048

MLC-066

WALSH-HEALEY PUBLIC CONTRACTS ACT

...overtime pay requirements for Federal contract workers...

The Walsh-Healey Public Contracts Act (1936) requires that persons employed in the manufacture of goods, purchased through contract by the Federal Government, be paid time-and-one-half of the employee's regular hourly wage for hours worked *in excess of 8 hours per day*. Legislation has been introduced for several Congresses to require payment of overtime rates (time-and-one-half) only for hours worked *in excess of 40 per week* as regularly provided for covered workers under the Fair Labor Standards Act.

In the 99th Congress, both the Walsh-Healey Act and the companion statute, the Contract Work Hours and Safety Standards Act (CWHSSA), were amended to eliminate the existing 8-hour pre-overtime pay standard and substitute in its place the 40-hour standard of the Fair Labor Standards Act. Amendment of the CWHSSA in this manner has the effect of altering the overtime pay protections both for workers engaged under the Davis-Bacon Act and the McNamara-O'Hara Service Contract Act.

More attention was focused upon the Walsh-Healey Act (and upon the CWHSSA) during the 99th Congress than in any other Congress of recent memory. Amendment of the statutes was proposed from at least three and possibly from four different directions. These efforts are discussed below.

The Walsh-Healey Public Contracts Act (with associated statutes) sets basic standards for private sector workers producing materials, supplies, articles, equipment, or naval vessels *under contract* for the Federal Government. Among other standards, the Act requires that time- and-one-half of one's regular wage be paid for hours worked in excess of 8 hours per day. On the other hand, the Fair Labor Standards Act (FLSA), the basic Federal wage and overtime pay statute, requires that private sector employees be paid time-and-one-half after 40 hours per week, normally, setting no daily pre-overtime pay limitation. In addition, direct Federal executive branch employees (along with those in certain other agencies) are granted, under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (as extended in 1982), the option of working extended daily hours (in excess of 8 per day) within an 80- hour biweekly period prior to the requirement for overtime pay.

Noting the difference between the three statutes, some observers suggest that the Walsh-Healey Act be amended to eliminate the 8-hour overtime pay provision. Defenders of the Act, recalling the long struggle by organized workers to achieve the 8-hour day, regard such proposals as an assault upon labor standards and suggest that, rather than seeking the return of a longer workday, shorter hours of work should be the goal.

A campaign to eliminate the 8-hour provision from the Walsh-Healey Act commenced during the late 1960s and has continued since that time. Appropriate legislation, in various forms, has been offered in the past several congresses. Hearings on the issue were conducted, most recently (prior to the 99th Congress), by the Senate Subcommittee on Labor (March 1981) and by the House Judiciary Subcommittee on Administrative Law and Governmental Relations (May 1984).

Action in the 99th Congress.

Efforts to amend the Walsh-Healey Act (and the related Contract Work Hours and Safety Standards Act, or CWHSSA) has taken a variety of forms during the 99th Congress.

(1) *Direct Amendment of the Statutes*

Representative Quillen has introduced legislation (H.R. 410) to allow for a ten-hour day prior to the requirement that overtime rates be paid. A broader initiative (H.R. 1893), by Representative Kindness, provides simply for a 40-hour pre-overtime standard workweek with no daily hours limitations. The latter would bring the Walsh-Healey Act and the CWHSSA into conformity with the Fair Labor Standards Act.

On May 8, 1985, Senator Armstrong introduced S. 1105, the "Federal Contractor Employees Flexitime Act" -- actually, amendments to the CWHSSA and Walsh-Healey Act. Like the Kindness proposal in the House, it would create a 40-hour pre-overtime pay standard. The language of S. 1105, slightly amended, has since been added to S. 1160, the National Defense Authorization Act for Fiscal Year 1986. (See below.)

(2) *The First Budget Resolution for Fiscal Year 1986*

On May 6, 1985, while the Senate had under consideration S. Con. Res. 32, setting forth the congressional budget, Senator Nickles offered an amendment which read:

> It is the sense of the Congress that overall Federal outlays should be reduced and it is assumed that legislation should be enacted to conform the overtime requirements under the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act with the Fair Labor Standards Act and it is further assumed that the resulting outlay reductions shall be utilized to achieve the previously agree-upon program and outlay savings.

The Nickles amendment was, in effect, an instruction to the respective subject area committees to institute savings through modification of the Walsh-Healey Act and the CWHSSA. That any actual savings would result, some might argue, was a gratuitous assumption.

Debate was relatively brief. The resolution was adopted on a vote of 86 yeas to 5 nays. (*Congressional Record*, May 6, 1985, p. S5451-S5453.)

(3) *The National Defense Authorization Act for Fiscal Year 1986*

Senator Gramm, on Apr. 3, 1985, introduced S. 868, the "Department of Defense Efficiency and Economy Act of 1985." The bill, among other provisions, modified the application of the CWHSSA, Davis-Bacon, and Walsh-Healey Acts to Federal defense procurement. Referred to the Senate Committee on Armed Services, its language, in modified form, was added to the National Defense Authorization Act (S. 1160). As part of the latter, "the Gramm amendment" replaced the eight-hour standard with a ten-hour day -- but only with respect to Federal defense contracts.

On the floor, Senator Kennedy proposed that the Davis-Bacon section of the Gramm amendment be deleted. After lengthy debate, the Kennedy motion was rejected on a vote of 49 yeas to 49 nays. No comparable effort, however, was made to preserve the integrity of the CWHSSA and the Walsh-Healey Act. Thus, the measure was adopted on June 5, 1985 (92 yeas to 3 nays) with the Gramm amendment in tact.

Since the House-passed version of the Defense Authorization legislation contained no similar language, the conferees were left to resolve the issue. Initially, the House conferees objected to deletion of prevailing wage and overtime pay protections for workers engaged in contract work for the defense establishment. However, by July 25, 1985, accommodation had been reached. First. *The Gramm Davis-Bacon amendment to the Act would be dropped, in effect maintaining Davis-*

Bacon standards unchanged. Second. *The conferees first deleted the Gramm language with respect to the CWHSSA and Walsh-Healey Act but then, in keeping with the Nickles amendment to the first budget resolution (discussed above), adopted with slight modification of language of S. 1105, the Armstrong proposal.*

As reported, therefore, the treatment of the Walsh-Healey Act and the CWHSSA in S. 1160 was broader than that proposed by Senator Gramm. First. *The eight-hour provision was replaced with the simple 40-hour week as in the FLSA.* Second. *The amendments applied to all Federal contract work, not merely that performed for the Department of Defense.* Third. *The effective date was set at Jan. 1, 1986 -- thus nullifying a provision added in the Committee on Labor and Human Resources by Senator Kennedy (and urged by the Senator during discussion of the budget resolution) to defer the application of the changes in overtime pay standards in order to protect contractors currently bound by a collective bargaining agreement.*

By a vote of 94 yeas, 5 nays, and 1 not voting, the Senate approved the conference report on July 30, 1985, just prior to the August recess. The House took no action prior to the August recess and delayed consideration of the legislation well into the fall. When the House took up the conference report on Oct. 29, 1985, there was no specific vote on the Walsh-Healey Act. S. 1160 was signed into law by President Reagan on Nov. 8, 1985 (P.L. 99-145).

(4) Flexible Schedules Legislation

While industry had long sought amendment of the Walsh-Healey Act for its own reasons (the cost factor of overtime pay requirements, the intrusion by Government into management decision-making, etc.), at least since the early 1970s, amendment of the Act has been urged by industry as an "alternative work scheduling" option. With the adoption of the Federal Employees' Flexible and Compressed Work Schedules legislation in 1978, the two initiatives have become increasingly linked. Organized labor was placed in the ambiguous position of supporting compressed scheduling (one flexible option) for Federal sector workers while opposing amendment of the Walsh-Healey Act to permit a similar arrangement for those engaged in contract work for the Federal Government. When the Federal employees' flexible hours experiment was extended for a second three years in 1982, Senator Armstrong proposed amendment of the Walsh-Healey Act as a rider to the public employee bill -- but without success.

In 1985, the Federal employees' flexible schedules program was once more up for review. In July of 1985, to prevent the program from terminating, Congress approved an interim extension through September 30 -- with other extensions following. If there was indeed linkage between the flexible schedules legislation and the Walsh-Healey/CWHSSA amendments in the 99th Congress, that connection was severed when, on Oct. 29, 1985, the House accepted the conference report on S. 1160. On Nov. 8, 1985, S. 1160 was signed into law by President Reagan (P.L. 99-145). The Walsh-Healey Act and the CWHSSA had been amended. On Dec. 11, 1985, the flexible hours legislation (H.R. 1534) was passed by the Senate and, on Dec. 23, was signed into law (P.L. 99-196).

LEGISLATION

H.R. 410 (Quillen)

Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act "to permit certain employees to work a 10-hour day in case of a 4-day workweek, and for other purposes." Introduced Jan. 3, 1985; referred jointly to Committees on the Judiciary and on Education and Labor.

H.R. 1893 (Kindness)

Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act "to permit employees, to whom such Acts apply, to work any combination of hours in a 40-hour workweek." Introduced Apr. 2, 1985; referred to Committee on Education and Labor.

S. 868 (Gramm)

Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act (CWHSSA) to make them inapplicable to the Department of Defense or to any contract of the Department of Defense except that overtime pay shall be required (time-and-one-half) where workers are engaged for in excess of ten hours in a single workday, and for other purposes. Introduced Apr. 3, 1985; referred to Committee on Armed Services. [The Walsh-Healey and CWHSSA provisions of S. 868, somewhat modified, were added to S. 1160, the National Defense Authorization Act for Fiscal Year 1986, as reported by the Committee on Armed Services and adopted by the Senate. S. 1160 was signed into law as P.L. 99-145 on Nov. 8, 1985.]

S. 1105 (Armstrong)

Federal Contractor Employees Flexitime Act. Amends the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to eliminate the 8-hour pre-overtime pay standards of the statutes, substituting a 40-hour weekly standard. Introduced May 8, 1985; referred to Committee on Labor and Human Resources. Following hearings June 13, S. 1105 was reported by the Committee July 17, 1985. The substance of S. 1105, slightly modified, was added by House-Senate conferees to S. 1160, the National Defense Authorization Act for FY86. On Nov. 8, 1985, S. 1160 was signed into law (P.L. 99-145).

William G. Whittaker

LAW, CRIME, AND JUSTICE

MLC-067

DRUG TRAFFIC CONTROL: FEDERAL EFFORTS

...new initiatives...

The nonmedical use of dangerous and dependence-producing drugs has been a matter of serious concern in the United States for well over half a century, but in the past 20 or so years political interest in the problem has sharpened.

The White House and Congress have reacted to public alarm over evidence of the widespread abuse of drugs with new initiatives -- legislative and administrative -- and the expansion of existing programs. Interest and action have embraced all general approaches to the drug abuse problem: in the areas of treatment, education, and research, as well as so-called law enforcement or "supply reduction".

Budget totals provide a measure of the growth in the general Federal commitment to prevention of drug abuse, especially since FY69: spending for all activities with this purpose rose from $82 million in that year to approximately $1.7 billion in FY85; drug abuse law enforcement spending went from $36 million to $1.4 billion during the same period. Whether current levels are adequate is a central policy issue, as it has been for the past 20 years.

The 98th Congress saw the culmination of many years of work on a number of general anti-crime measures as well as on several that are aimed specifically at the drug problem. The principal enactment was an omnibus crime control bill consisting of twenty three titles (or "chapters") that deal with a broad range of matters pertaining to criminal justice and procedure (Title II of P.L. 98-473). Despite this, legislative interest in the drug issue continues at a high level in the current Congress -- areas of particular concern being military participation in drug law enforcement, additional controls on the "laundering" of money derived from illicit drug traffic, penalty levels for drug offenses, employee testing for drug use, and the further reduction of overseas drug production. Following the deaths of two prominent U.S. athletes and amid reports of an epidemic in the use of cocaine and cocaine free-base, both the Administration and Congress have undertaken new initiatives. Prior to the August recess, eleven House committees were working to report anti-drug measures. Reportedly, the result will be an omnibus measure that will be taken to the floor in early September.

Drug enforcement activities of the U.S. Government are generally subject in FY86 to funding sequestrations under the terms of P.L. 99-177 (Gramm-Rudman-Hollings Deficit Reduction Act).

LEGISLATION

* To be included (in whole or part) in the House omnibus anti-drug bill scheduled for floor action Sept. 10, 1986.

P.L. 99-83, (S. 960)

International Security and Development Cooperation Act of 1985. For the International Narcotics Control program, authorizes appropriations of $57.5 million for each of FY86 and FY87. Makes economic and military assistance to Bolivia contingent on the licensing of coca growers and the limitation of production to pre-established legal needs, allowing 50% of the scheduled payments for FY86 to be made after compliance -- with the remaining 50% to be provided when the President certifies to Congress that Bolivia has met the eradication targets for 1985 that were specified in a 1983 agreement with the U.S. For continuation of aid in FY87, Bolivia must have developed a plan to eradicate illicit production. Conditions approximately $90 million of the total amount of FY86 assistance scheduled for Peru on a showing of "substantial progress" by Peru in developing a plan to eliminate unlicensed coca production. To receive full assistance in FY87, Peru must have put the plan into operation. Terminates the ban on participation by U.S. officers or employees in police arrest actions or interrogations in foreign countries where such participation has been agreed upon by the Secretary of State and the government of the country in question. Requires countries receiving assistance for narcotics control to provide at least 25% of the cost of any program or project funded therewith. Authorizes provision of defense armaments for foreign aircraft being used to combat drugs. Requires a study to determine the feasibility of establishing a Latin American regional narcotics control organization. Requires a number of additional reports to Congress on matters pertaining to drug control. S. 960 reported Apr. 19 (S.Rept. 99-34). Passed Senate May 15. Passed House with H.R. 1555 incorporated (which in turn incorporated most provisions of H.R. 1768) as amendment July 11. Both House and Senate agreed to conference report (H.Rept. 99-237) July 30. Signed by the President Aug. 8, 1985. H.R. 1555 reported Apr. 15, 1985 (H.Rept. 99-39). Passed House, amended, and incorporated into S. 960 as an amendment, July 11, 1985.

P.L. 99-88, (H.R. 2577)

Supplemental Appropriations for FY85. Provides about $100 million for additional positions for the Drug Enforcement Administration, the Customs Service, and other drug law enforcement agencies. A Senate floor amendment directs the Secretary of Defense to submit a report to Congress on the role of the Department in the drug interdiction and law enforcement activities of the Federal Government. A separate report by the President, on the overall Federal effort, is also required. H.R. 2577 passed House June 12, 1985. Passed Senate, amended, June 20. House agreed to conference report (H.Rept. 99-236) July 31. Senate agreed to conference report, Aug. 1. Signed by the President Aug. 15, 1985.

P.L. 99-145, (S. 1160)
Department of Defense Authorizations, FY86. Senate floor amendments include an amended version of S. 531, clarifying military support for civilian drug interdiction, including authorization of the establishment and operation of one or more reserve forces airborne surveillance and detection units. Another floor amendment requires the Attorney General to conduct regular programs on military cooperation with civilian law enforcement officials. House bill, as reported, contains essential provisions of H.R. 1307 (see below). House floor amendments (1) adopt the provisions of H.R. 2553 (see below), authorizing direct military participation in drug interdiction operations taking place outside the U.S., and (2) provide for a study on the use of the E-2 aircraft for drug interdiction purposes. Conference retained authorization for special airborne surveillance and detection units but left to the Secretary of Defense the assignment of the direction of such units and permitted existing active units to be utilized while also allowing for possibility of using reserves. Conference rejected House provision allowing direct military participation in drug interdiction operations but provided for the mandatory assignment of Coast Guard personnel to each naval vessel at sea in a drug interdiction area and authorized 500 additional Coast Guard personnel for this purpose. S. 1160 passed Senate June 5, 1985. Passed House, amended, June 27. Senate disagreed to House amendments July 11. Conference report (H.Rept. 99-235) agreed to by Senate July 30. Conference report agreed to by House Oct. 29. Signed by the President Nov. 8, 1985. H.R. 1872 reported by Armed Services Committee May 10, 1985 (H.Rept. 99-81). Passed House, amended, and incorporated into S. 1160, June 27.

P.L. 99-190, (H.J.Res. 465)
Further Continuing Appropriations, FY86. Contains provisions to (1) earmark $300 million for the enhancement of drug interdiction efforts by the Department of Defense, of which $35 million is further earmarked for the commencement of the configuration of an AC-130H-30 pressurized drug surveillance aircraft and the establishment of an "appropriate" command and control element for the drug interdiction mission within the Air Force, and (2) require that 50% of the funds (excluding International Narcotics Control funds) for Jamaica and Peru be withheld from obligation unless the President determines and reports to Congress that these Governments are "sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interests of the United States." House and Senate agreed to conference report (H.Rept. 99-450) Dec. 19, 1985. Signed by the President Dec. 19, 1985.

H.R. 3404 (Rangel and Gilman)
Narcotics Control Trade Act. Requires the President to make determinations with respect to the cooperation by drug-source countries in preventing narcotics and other dangerous drugs from "significantly affecting" the U.S. and to report to Congress the name of any country failing to provide such cooperation. Provides that any country so named would be ineligible for most-favored-nation treatment in trade with the U.S. Introduced Sept. 20, 1985; referred to Committee on Ways and Means. Incorporated into H.R. 5410, reported Aug. 15 (H.Rept. 99-794).

H.R. 5176 (St. Germain et al.)
Comprehensive Money Laundering Prevention Act. Makes it an offense to structure a currency transaction to evade Federal reporting requirements. Authorizes seizure and forfeiture of cash or related property involved in a transaction where a financial institution has been led to fail to file a required Bank Secrecy Act report. Increases maximum fines for certain violations of the Bank Secrecy Act. Directs banking regulators to prescribe regulations requiring insured financial institutions to establish and maintain Bank Secrecy Act compliance reporting procedures. Amends the Right to Financial Privacy Act to clarify the type and amount of information a financial institution can voluntarily give to law enforcement authorities without notifying the customer, and for other purposes. Introduced July 17, 1986; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, Aug. 5, 1986 (H.Rept. 99-746). (Related bills: H.R. 2786, H.R. 5077, H.R. 5217, S. 572, S. 1335, S. 2683, H.J.Res. 668 (Debt ceiling))*

H.R. 5217 (Hughes, McCollum, Rodino, Fish et al.)
Money Laundering Control Act of 1986. Defines "money laundering" and makes it a criminal offense. Provides for seizure and forfeiture -- both criminal and civil -- of property constituting, or derived from, the receipts obtained from a money laundering offense. Amends the Right to Financial Privacy Act to clarify the type and amount of information a financial institution can provide to law enforcement authorities without notifying the customer. Increases maximum criminal fines for certain violations of the Bank Secrecy Act. H.R. 5077 introduced June 24, 1986; referred jointly to Committees on the Judiciary, and on Banking, Finance and Urban Affairs. Clean bill H.R. 5217 introduced July 22, 1986; referred to full Judiciary Committee. Ordered reported, amended, July 29, 1986. (Related bills: H.R. 2786, H.R. 5077, S. 572, S. 1335, S. 2683, H.J.Res. 668 (Debt ceiling))*

H.R. 5246 (Hughes, Lungren et al.)
Amends the Controlled Substances Act to prohibit certain conduct with respect to controlled substance analogs. Introduced July 24, 1986; referred jointly to Committees on the Judiciary, and on Energy and Commerce. Ordered to be reported, amended, by Committee on the Judiciary, July 29, 1986. (Related bills: S. 1437, H R. 2977)*

H.R. 5266 (English, Brooks, and Kindness)
Requires the President to submit legislation for the reorganization of the executive branch in order to more effectively combat drug trafficking and drug abuse. Introduced July 29, 1986; referred to Committee on Government Operations. Reported, amended, Aug. 12, 1986 (H.Rept. 99-786).*

H.R. 5334 (Dingell, Waxman et al.)
Drug Abuse Prevention and Treatment Act of 1986. Among other things, amends the Controlled Substances Act to bring so-called "designer drugs" under control and requires the President to call a White House Conference on Drug Abuse and Drug Trafficking Control. Introduced Aug. 5, 1986; referred to Committees on Energy and Commerce, Interior and Insular Affairs, the Judiciary, and Education and Labor. Reported by Committee on Energy and Commerce Aug. 14, 1986 (H.Rept. 99-792, Part 1).*

H.R. 5352 (Fascell, Broomfield et al.)
International Narcotics Control Act of 1986. Increases the FY87 authorization for the International Narcotics Control program under the Foreign Assistance Act -- from $57.5 million to $65.5 million -- and authorizes an additional $35 million provided a formal budget request for that amount is submitted. Earmarks $10 million of FY87 military assistance for aircraft to be used in drug eradication and interdiction efforts by foreign countries and $2 million of foreign military training funds for training in operation and maintenance of the aircraft. Provides for further research in herbicides for aerial coca eradication. Modifies the "Mansfield Amendmente, relating to the participation of overseas U.S. employees in drug law enforcement actions conducted by host country police, to permit such participation when the Secretary of State determines it is justified. Specifically authorizes Armed Forces assistance to foreign law enforcement officials outside the United States, for drug law enforcement and other specified purposes. Increases funding for drug abuse education programs abroad. Calls upon the President to initiate negotiations with Mexico to create a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control. Requires additional Executive branch reports on various aspects of the drug problem. Introduced Aug. 7, 1986; referred to Committee on Foreign Affairs. Reported Aug. 15, 1986 (H.Rept. 99-798).*

H.R. 5381 (Hunter, Robinson et al.)
Requires the use of Armed Forces personnel and equipment for the interdiction of illicit drugs, and the arrests of drug traffickers (under specified circumstances), at United States borders. Introduced Aug. 11, 1986; referred to Committees on Armed Services, and on the Judiciary. (Related bill: H.R. 5270)

H.R. 5393 (Hughes et al.)
Drug Enforcement Enhancement Act of 1986. Authorizes a two-year program of matching grants to States and localities for drug law enforcement purposes ($300 million). Authorizes an additional $60 million for the Drug Enforcement Administration for FY87. Full committee amendments authorized nearly $1 billion, over three years, for Federal prison construction along with money for additional U.S. attorneys and U.S. marshals. Introduced Aug. 12, 1986; referred to Committee on the Judiciary. Ordered to be reported, amended, Aug. 13, 1986.*

H.R. 5394 (Hughes, McCollum et al.)
Narcotics Penalty and Enforcement Act of 1986. Amends the Controlled Substances Act and the Controlled Substances Import and Export Act to provide for stricter penalties -- including mandatory minimums for more serious offenses. Creates a 3-tier system of trafficking penalties, based on amounts involved. Provides for a mandatory life sentence when death results from drug trafficking. Makes it a crime, with enhanced mandatory penalties, for an adult to use a minor in the manufacture or distribution of controlled substances. Provides for a mandatory fine for first-time offenders convicted of possession offenses occurring within the special Federal territorial jurisdiction and mandatory imprisonment (90 days) for subsequent offenders. Introduced Aug. 12, 1986; referred to Committees on the Judiciary, and on Energy and Commerce. Ordered reported, amended, by Committee on the Judiciary, Aug. 13, 1986.*

H.R. 5406 (Jones W., and Davis)
Authorizes additional appropriations for the Coast Guard -- $150 million in each of FY87 and FY88 to add 1,500 military positions and obtain, upgrade and operate equipment -- to protect and encourage the agency's mission to interdict illicit drugs. Introduced Aug. 12, 1986; referred to Committee on Merchant Marine and Fisheries. Ordered to be reported, amended, Aug. 13, 1986. (Related bill: H.R. 5268)*

S. 237 (Thurmond et al.)/H.R. 1126 (Lungren et al.)
Narrows the application, in Federal criminal proceedings, of the Fourth Amendment "exclusionary rule" requiring suppression of improperly seized evidence, by allowing admission where the officers making the seizure were proceeding upon a "reasonable, good faith belief" that they were acting properly. S. 237 introduced Jan. 22, 1985; referred to Committee on the Judiciary. H.R. 1126 introduced Feb. 19, 1985; referred to Committee on the Judiciary. (Related bill: S. 29)

S. 1437 (Thurmond et al.)/H.R. 2977 (Lungren, Fish et al.)
Designer Drug Enforcement Act of 1985. Amends the Controlled Substances Act to establish new penalties for the manufacture or distribution of a "designer drug" (up to 15 years or up to $250,000, or both) -- "designer drug" being defined as a substance, other than a controlled substance, that has a chemical structure "substantially similar" to that of a controlled substance in Schedules I or II. S. 1437 introduced July 16, 1985; referred to Committee on the Judiciary. Reported, amended, Nov. 21 (S.Rept. 99-196). Passed Senate, amended, Dec. 18. In House, referred jointly to Committees on Energy and Commerce, and the Judiciary Dec. 18, 1985. H.R. 2977 introduced July 11, 1985; referred to Committees on Energy and Commerce, and the Judiciary. (Related bills: S. 1417, H.R. 3936, H.R. 5246)

S. 1694 (DeConcini, Chiles, and Hawkins)/H.R. 3479 (English)
Anti-Smuggling Act of 1985. Amends the Tariff Act of 1930 to require immediate reporting to Customs of the arrival of any vessel, vehicle or aircraft from abroad (instead of allowing 24 hours, as at present). Imposes civil and criminal penalties and civil forfeiture for airdropping drugs from an aircraft to a waiting vessel on the high seas or within customs waters. Provides statutory authority for the operation of U.S. customs facilities in foreign countries and the extension of U.S. customs laws to foreign locations with the consent of the country concerned. [Note: Based on selected provisions of the Administration's proposed "Customs Enforcement Act of 1986".] Introduced Sept. 24, 1985; referred to Committee on Finance. H.R. 3479 introduced Oct. 2, 1985; referred jointly to Committees on Ways and Means, and Public Works and Transportation. (Related bill: H.R. 5410)

S. 2714 (Chiles, Biden, Byrd et al.)
Emergency Crack Control Act of 1986. Transfers cocaine freebase to Schedule I under the Controlled Substances Act.

Decreases to 5 grams the amount needed to make a freebase trafficking offense subject to enhance penalties. Makes it a crime, subject to doubled penalties, for an adult to employ or use a minor in connection with a violation of the Controlled Substances Act. Provides for added penalties if the minor is 14 years of age or younger. Makes manufacturing a controlled substance within 1,000 feet of a school subject to enhanced penalties. Also contains various provisions relating to drug abuse education and other prevention efforts -- including one to establish an Office of Drug and Alcohol Abuse Education and Policy within the Department of Education and one to create a program of grants for purposes of drug abuse education and prevention ("Student Drug Abuse Education and Prevention Act of 1986"). Requires the Secretary of Health and Human Services to prepare and submit to Congress, within 30 days of enactment, a report and feasibility study of intervention by the Center for Disease Control and the National Institute on Drug Abuse "to reduce the epidemic of cocaine freebase use in the United States." Introduced Aug. 5, 1986; referred to Committee on Labor and Human Resources.

S. 2715 (Biden, Chiles, Byrd et al.)

National Narcotics Act of 1986. Creates an "Office of the Director of National and International Drug Operations and Policy, to be headed by a director and deputy director whose appointments would be subject to the advice and consent of the Senate. Authorizes the Director to (1) develop, review, implement and enforce U.S. Government policy with respect to illegal drugs, (2) direct and coordinate all U.S. Government efforts to halt the flow into, and sale and use of drugs within, the U.S., (3) develop, in concert with the appropriate entities, budgetary priorities and allocations relating to the control of illegal drugs, and (4) coordinate the collection and dissemination of information necessary to implement government policy with respect to illegal drugs. Authorizes appropriations of $1 million for FY87 for carrying out the act. Introduced Aug. 5, 1986; referred to Committee on Governmental Affairs.

S. 2764 (DeConcini, D'Amato, Chiles, Moynihan, and Dixon)

National Drug Interdiction Improvement Act. Authorizes additional FY87 appropriations for the following agencies, for specified purposes related to drug interdiction, including prescribed increases in personnel levels: (1) Defense Department -- $887 million, with $405 million earmarked for coastal defense augmentation by the Coast Guard; (2) Customs Service -- $357 million; (3) Coast Guard -- $110 million; (4) Justice Department -- $70 million, including $57.8 million for the Drug Enforcement Administration. Authorizes establishment of a U.S.-Bahamas Drug Interdiction Task Force, a Customs Service air support branch in New York State, and a program using the National Guard in drug interdiction efforts. Also requires the President to submit recommendations for legislation to reorganize the Executive branch to combat more effectively international drug traffic and drug abuse. Introduced Aug. 14, 1986; referred to Committee on Finance. (Related bills: H.R. 5266, H.R. 5406, H.R. 5393, H.R. 5381, H.R. 5410, S. 2716.)

Harry Hogan
IB84011

MLC-068

GUN CONTROL

...major gun law amendments enacted...

The Congress, like the American public, continues to be divided over gun control. Proponents of stricter regulation hold that the easy availability of firearms, especially handguns, is a major factor in what they maintain is an unacceptably high national rate of violent crime. They contend that generally lower crime rates in comparable Western countries can be attributed, at least in part, to strong gun laws. Opponents disagree and point instead to flaws in the U.S. criminal justice system to deter potential offenders. Fearing policies that could lead to a general disarming of the American people, they may in principle oppose existing Federal gun control laws, particularly Title I of the Gun Control Act of 1968 as enacted, and are likely to have favored the recently passed McClure-Volkmer Amendments (P.L. 99-308) to that statute.

LEGISLATION

P.L. 99-308 (S. 49)

Firearms Owners Protection Act. Amends the Gun Control Act of 1968 to: (1) eliminate restrictions on the sale of long guns (but not handguns) by licensees to out-of-State residents providing such sales conform to the laws of the States of both the buyer and the seller; (2) require proof of "willfulness" to convict for violation of a number of the Act's provisions; (3) clarify the elements that necessitate obtaining a manufacturer, importer or dealer license; (4) exempt ammunition dealers from the Act's requirements; (5) restrict the right of inspection of licensees by Federal agents and the use of license revocation authority; (6) eliminate all remaining recordkeeping for ammunition sales (other than for armor-piercing ammunition); (7) allow licensee sale of firearms at gun shows; (8) restrict Treasury Department authority to require licensees to submit reports based on records kept pursuant to the Act; (9) restrict the grounds for seizure of firearms involved in violations of the Act; (10) prohibit the issuance of any regulations designed to create a central registry of firearms transactions; (11) require a 90-day comment period with respect to any proposed regulation under the Act; (12) provide that the States and localities may not interfere with otherwise lawful transport of unloaded and inaccessible firearms; (13) prohibit importation of barrels of otherwise non-importable handguns; (14) double mandatory enhancement penalty for use of a gun in committing a Federal crime of violence or serious drug offense -- if the gun is a machine gun or is equipped with a silencer; (15) provide additional possiblies for relief from legal disabilities under the Act; (16) reduce to the misdemeanor level all licensee recordkeeping violations; (17) prohibit the possession or transfer of a machine gun not lawfully possessed before the President signs the bill; (18) tighten restrictions on items designed for use in converting a semi-automatic into a fully automatic firearm. S. 49 introduced Jan. 3, 1985; placed on the Senate calendar. Passed Senate, amended, July 9, 1985. Passed House, amended, Apr. 10, 1986 (see H.R. 4332). House amendments agreed to by Senate May 6, 1986 (but see S. 2414). Signed into law May 19, 1986. (H.R. 945 introduced Feb. 6, 1985; referred to Committee on the Judiciary. H.Res. 290 to take up H.R. 945 introduced Oct. 3; referred to Committee on Rules. Petition to discharge Committee on Rules from further consideration of H.Res. 290 filed Oct. 22, 1985. Necessary number of signatures on petition achieved Mar. 13, 1986. [Related bill: H.R. 4332].)

P.L. 99-360 (S. 2414)

Amends new amendments to the Gun Control Act contained in S. 49 -- relating to (1) transport of firearms, (2) the definition of "engaged in the business" in determining who is obliged to obtain a Federal firearms license, and (3) recordkeeping requirements for sales from licensed dealers' private collections. Introduced and passed Senate, May 6, 1986. S.Con.Res. 152, authorizing the addition of language to S. 2414 concerning its effective date, passed Senate and House June 24. S. 2414 passed House June 24. Signed into law July 8, 1986.

H.R. 3132 (Biaggi, Hughes et al.)

Law Enforcement Officers Protection Act of 1985. Amends the Gun Control Act to ban the further manufacture or import of certain (specified) varieties of armor-piercing ammunition, based on substance used in construction, and to provide for the revocation of licenses of dealers who willfully sell such ammunition. H.R. 4 introduced Jan. 3, 1985; referred to Committee on the Judiciary. H.R. 3132, clean bill, approved for full committee and introduced July 31, 1985. Reported, amended, Nov. 6 (H.Rept. 99-360). Passed House, amended, Dec. 17. Passed Senate, amended, Mar. 6, 1986. House concurred, in Senate amendments, with amendments, Aug. 11, 1986; requested a conference. Senate concurred in House amendment Aug. 13, 1986, thus clearing bill for White House. [Related bills: S. 104, H.R. 13].

S. 104 (Thurmond et al.)/H.R. 13 (Brooks et al.)

Law Enforcement Officers Protection Act of 1985. Amends the Gun Control Act to ban the further manufacture or import of certain (specified) varieties of armor-piercing ammunition, based on substance used in construction. S. 104 introduced Jan. 3, 1985; referred to Committee on the Judiciary. Reported, amended, July 29, 1985 (no written report). Senate incorporated amended version into H.R. 3132 and passed latter, Mar. 6, 1986. H.R. 13 introduced Jan. 3, 1985; referred to Committee on the Judiciary. [Related bill: H.R. 3132].

Harry Hogan
IB74011

MLC-069

IMPEACHMENT

...not since 1936...

Under Article II, Section 4 of the United States Constitution, "The President, Vice President and civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." The sole power to impeach rests in the House of Representatives under Article I, Section 2, Clause 5 of the Constitution. If the House of Representatives resolves to impeach an official and votes articles of impeachment, then the matter moves to the Senate for trial. Under Article I, Section 3, Clause 6, the sole power to conduct the impeachment trial is placed in the hands of the Senate. The House chooses managers to present the articles to the Senate and to prosecute the case.

The Senate hears the evidence presented and determines whether to convict or acquit the respondent as to each article. Under Article I, Section 3, Clause 6 of the Constitution, a conviction must be by a concurrence of two thirds of the members present. Evidence may be taken by the Senate as a whole, or, under Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, if the Senate so demands, a committee of Senators may be appointed to receive evidence in the case. This committee would then report to the full Senate a certified transcript of the proceedings and testimony before the committee. The Senate could then make any necessary determinations as to materiality, relevancy, and competency. Further, the Senate may then require testimony of any witnesses to be heard in open Senate, and, indeed, may order the whole trial to be held in open Senate. The committee procedure has not been used in past impeachment proceedings. Prior to the current Congress, only one opportunity has been available for its use, the Halsted Ritter impeachment trial in 1936. Rule XI dates from 1935. The Ritter trial is the most recent impeachment trial to date. Prior to the trial of Judge Ritter, a District Judge of the U.S. District Court for the Southern District of Florida, there were eleven other Federal impeachment trials. The people tried in those proceedings included: William Blount, United States Senator from Tennessee (impeachment proceedings ran from 1797-1799); John Pickering, District Judge for the U.S. District Court for the District of New Hampshire (1803-1804); Samuel Chase, Associate Justice of the United States Supreme Court (1804-1805); James H. Peck, District Judge of the U.S. District Court for the District of Missouri (1826-1831); West H. Humphreys, District Judge for the U.S. District Court for the District of Tennessee (1862); Andrew Johnson, President of the United States (1867-1868); William W. Belknap, Secretary of War (1876); Charles Swayne, District Judge, U.S. District Court for the Northern District of Florida (1903-1905); Robert W. Archbald, Circuit Judge, United States Court of Appeals for the Third Circuit, serving as Associate Judge of the United States Commerce Court (1912-1913); George W. English, District Judge, U.S. District Court for the Eastern District of Illinois (1925-1926); Harold Louderback, District Judge, U.S. District Court for the Northern District of California (1932-1933). Of these trials, four resulted in convictions, Pickering's, Humphreys', Archbald's and Ritter's.

If the Senate convicts the person being impeached on any of the articles of impeachment, then the Senate must determine what judgment is to follow from this conviction. Removal from office appears to flow automatically from conviction in an impeachment trial, but disqualification from holding public office in the future does not seem to be an automatic result. For example, in Pickering's case, the Senate ordered removal alone, while in Humphreys' case removal and disqualification were required. Removal and disqualification may be divided for purposes of voting. On questions of judgment, only a majority vote is required. Under Article I, Section 3, Clause 7, removal and disqualification are the only results which may be included in judgments flowing directly from such a conviction. However, this clause expressly states that an individual may thereafter be subject to criminal prosecution.

Proceedings Against Judge Harry E. Claiborne

On July 14, 1986, the House received a letter from the Chief Justice of the United States which transmitted a determination, pursuant to 28 U.S.C. 372(c)(B), that Judge Harry E. Claiborne of the U.S. District Court for the District of Nevada had "engaged in conduct which might constitute grounds for impeachment."

On July 22, 1986, under H.Res. 461, the House of Representatives voted articles of impeachment against Harry E. Claiborne. On the same day, Members of the House of Representatives were appointed to act as House managers to conduct the impeachment trial against Judge Claiborne under H.Res. 501. The managers include Peter W. Rodino, Jr., Robert W. Kastenmeier, William J. Hughes, Romano L. Mazzoli, Dan Glickman, Hamilton Fish, Jr., Henry J. Hyde, Thomas N. Kindness, and Michael DeWine.

Under H.Res. 502, a message was directed to be sent to the Senate to advise the Senate that the House had impeached Judge Claiborne and that articles of impeachment had been voted against him. The House managers named above were directed to carry those articles to the Senate. This resolution was also agreed to on July 22, 1986. That same day, the House agreed to H.Res. 503, which authorized the House managers to employ legal, clerical and other assistants and to incur necessary expenses to pursue the Claiborne impeachment. Expenses are to be paid out of the House of Representatives' contingent fund. The managers were also directed "to send for persons and papers, and to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary." This resolution set the maximum for expenditures under this resolution at $50,000.

On Aug. 6, 1986, the House managers appeared below the bar of the Senate and presented the articles of impeachment. On Aug. 12, 1986, the Senate adopted S.Res. 476, which provided that on Aug. 14, 1986, the Senate would proceed to consider the articles of impeachment against Judge Claiborne and directed the Secretary of the Senate to notify the House to that effect.

On Aug. 14, 1986, the Senate agreed to S.Res. 480, which directed that a summons be issued commanding Judge Claiborne to answer the articles of impeachment by Sept. 8, 1986, and "thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States." This resolution also authorized the Sergeant at Arms to use the Deputy Sergeant at Arms or another Senate employee to serve the summons. The House is to be notified by the Secretary of the Senate of the filing of Judge Claiborne's answer, and the Secretary is to provide a copy of it to the House. Further, S.Res. 480 sets Sept. 15, 1986, as the date by which the House managers must file a replication. The Secretary is directed to notify Judge Claiborne's counsel of the filing of the House's replication, and to provide them with a copy of it. The Secretary is to provide the Presiding Officer with the answer and replication on the first day the Senate is in session after they are received. The Presiding Officer is directed to cause the answer and replication to be printed in the Senate Journal and in the Congressional Record. If a timely answer is not filed, the Presiding Officer is directed to cause a not guilty plea to be entered to the charges. The resolution also provides that in any conflict between the resolution and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the resolution will control. The Secretary was also directed to give the House of Representatives notice of S.Res. 480.

On the same day, the Senate also agreed to S.Res. 481, which directed the Presiding Officer to appoint a committee of twelve Senators under Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Minority and Majority Leaders are directed to recommend six Senators to the Presiding Officer for appointment to the committee. The committee's necessary expenses are to be paid from the Senate's contingent fund. For purposes of printing reports, hearings, and other documents for submission to the Senate under Rule XI, the committee is to be deemed a standing committee. The Secretary of the Senate was directed to notify the House of this resolution.

Senators Dole and Byrd made the recommendations for appointment to the committee. The Vice President then appointed the members of the committee, to include Senators Mathias, Hatch, Warner, Rudman, Pressler, McConnell, Heflin, DeConcini, Sarbanes, Pryor, Gore, and Bingaman. Senator Dole expressed the hope that the week of Sept. 22, 1986, would be used to complete the printing of the record of the committee to be submitted to the full Senate "on September 29th or as soon thereafter as the Senate, sitting as a Court of Impeachment, can hear them."

On Aug. 15, 1986, the Senate agreed to S.Res. 439, with amendment, which authorized the printing a revised edition of S.Doc. 93-102, 93rd Congress, 2d Session, entitled "Procedure and Guidelines for Impeachment Trials in the United States Senate," as a Senate Document. In addition, the Senate adopted S.Res. 476, which amended the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

LEGISLATION

H.Res. 461 (Rodino)
A resolution impeaching Harry E. Claiborne, Chief Judge of the United States District Court of Nevada, of high crimes and misdemeanors. Introduced June 3, 1986; referred to Committee on the Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice June 5. Subcommittee hearings held June 19. Full Committee consideration and mark-up June 26. Reported to House, amended, July 16 (H.Rept. 99-688). Agreed to in House by a yea-nay vote (406-0) July 22, 1986.

H.Res. 487 (Sensenbrenner)
A resolution impeaching Harry E. Claiborne, Chief Judge of the United States District Court of Nevada, of high crimes and misdemeanors. Introduced June 24, 1986; referred to Committee on the Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice July 1, 1986.

H.Res. 501 (Rodino)
A resolution appointing managers on the part of the House to conduct an impeachment trial against Harry E. Claiborne. Agreed to in House by voice vote July 22, 1986.

H.Res. 502 (Rodino)
A resolution providing that a message be sent to the Senate relating to the impeachment of Harry E. Claiborne. Agreed to in House by voice vote July 22, 1986. Received in Senate Aug. 5, 1986.

H.Res. 503 (Rodino)
A resolution granting certain authorities to the managers on the part of the House in the matter of the impeachment of Harry E. Claiborne. Agreed to in House by voice vote July 22, 1986.

S.Res. 438 (Byrd)
Directs the Senate Committee on Rules and Administration to study Senate rules and precedents applicable to impeachment trials. Introduced June 26, 1986; referred to Committee on Rules and Administration.

S.Res. 439 (Byrd)
Authorizes reprinting of Senate Document 93-102, 93d Congress, 2d Session. Introduced June 26, 1986; referred to Committee on Rules and Administration. Reported, with amendment in the nature of a substitute, and amendment to the title, Aug. 12 (S.Rept. 99-394). Agreed to in Senate by voice vote Aug. 15, 1986.

S.Res. 476 (Dole)
Establishes a date and time for proceedings to consider the articles of impeachment. Submitted, considered, and agreed to by voice vote Aug. 12, 1986.

S.Res. 480 (Dole)
Provides for issuance of a summons and for related procedures concerning the articles of impeachment against Harry E. Claiborne. Submitted, considered, and agreed to by voice vote Aug. 14, 1986.

S.Res. 481 (Dole)
Provides for appointment of a committee to receive and report evidence with respect to the impeachment against Harry E. Claiborne. Submitted, considered, and agreed to by voice vote Aug. 14, 1986.

Elizabeth B. Bazan

MINORITY ISSUES

MLC-070

GAMBLING ON INDIAN RESERVATIONS

...the regulation of gambling in Indian Country...

It is estimated that there are more than 100 gambling operations on Federal Indian lands. Most of these are bingo establishments -- some offering immense prizes, usually at odds with State regulations governing such activites. Indians tend to see gambling as a source of revenue consistent with the private enterprise motif emphasized by the Administration, but States object that such activities involve non-Indian customers, are inconsistent with State regulations, and present a variety of law enforcement problems as a result. Moreover, concern has been expressed by some, including the U.S. Department of Justice, that such Indian gambling may invite infiltration by organized crime. Legislation has been introduced in the 99th Congress to provide for Federal standards governing the regulation of gambling in Indian country. At issue is the degree to which Congress may become involved in providing standards for the regulation of the Indian gambling industry by the Federal Government, the States, and the tribes themselves.

Courts have generally held that tribes retain the power to regulate gambling on their reservations unless statutes that transfer criminal jurisdiction to States or that assert Federal criminal jurisidiction over State offenses committed on Indian reservations apply to gambling. The courts have held that those laws apply only when the State law at issue contains an outright prohibition on gambling, or on bingo, rather than, as is the case with most State laws, a system of regulating gambling or bingo. (This paragraph was contributed by Maureen Murphy, American Law Division.)

(The U.S. Supreme Court has agreed to hear next term arguments challenging a ruling by the 9th Circuit Court of Appeals which exempted certain Indian tribes in California from State gambling regulations.)

Tribes tend to see gambling as a source of revenue and increased employment consistent with the private enterprise motif emphasized by the Administration, but States object that such activities involve non-Indian customers, are inconsistent with State regulations, and present a variety of law enforcement problems as a result.

A central issue, therefore, is whether Congress needs to establish standards for the regulation of gambling in Indian country.

Since Congress has plenary power over Indian affairs, it can regulate gambling on Indian lands as it sees fit, subject to constitutional strictures. At present there are seven measures pending before the 99th Congress which propose varying Federal standards and authorities governing the regulation of gambling in Indian country.

LEGISLATION

H.R. 1920 (Udall et al.)

Divides all gambling activities on Indian lands into three categories: Class I (social games for prizes of minimal value and traditional or ceremonial gaming); Class II (bingo, lotto, or similar games including pull tabs and punch boards); and Class III (all other forms of gambling).

Class I would be regulated by the tribes and is exempted from coverage. Class II gambling would be regulated by an eight-member National Indian Gaming Commission to be established within the Department of the Interior, whose members would be appointed by the Secretary of the Interior.

A four-year moratorium would be placed on any further Class III gambling operations on Indian reservations, except those existing on Jan. 1, 1986, which were found to be legal under existing law. Within two years after enactment, the GAO would be required to study the issue of Class III regulations and submit a report to Congress. At the end of four years, if Congress had not made other disposition, Class III gambling would revert to the status quo ante and be governed by existing law.

Exempted Class III gambling would be regulated by the Commission under a regulatory scheme "substantially equivalent" to those of the State in which it was located, and relevant provisions governing Class II gambling would be applied.

All Class II and III Indian gambling activities on lands outside the reservation would be illegal unless approved by the governor, the legislature, and the county and municipal governments involved. Introduced Apr. 2, 1985; referred to Committee on Interior and Insular Affairs. Reported Mar. 10, 1986, with amendment (H.Rept. 99-488). Passed House Apr. 21, 1986.

H.R. 2404 (Shumway et al.)

Amends the U.S. Code to impose a penalty for conducting a gambling operation in Indian country, except those conducted under tribal laws having been approved by the Secretary of the Interior and consistent with State laws. Introduced May 7, 1985; referred to more than one Committee.

H.R. 3130 (Bereuter et al.)

Prohibits the Secretary of the Interior from granting trust status to any Indian land located outside the reservation of an Indian tribe if such land were to be used for gambling activities. The prohibition would not apply if the Indian tribe requesting the trust status obtained the concurrence of the governor of the State, and the legislative bodies of all local governmental units in which the land is located. Introduced July 31, 1985; referred to Committee on Interior and Insular Affairs.

H.R. 3745 (Coelho)

Grants authority to the States to regulate and tax any gambling activity except bingo that is conducted on an Indian reservation or on land held in trust by the Federal government for an Indian tribe. Concurrent tribal jurisdiction over such activities would be authorized if tribal laws for such regulation were approved by the Secretary of the Interior and published in the *Federal Register*. The bill would prohibit such tribal law from being in violation of or inconsistent with State law. Introduced Nov. 13, 1985; referred to Committee on Interior and Insular Affairs.

H.R. 3752 (Richardson)
Establishs within the Department of the Interior a National Indian Gaming Commission to regulate Indian gambling activities in Indian country.

Gambling activities would be divided into three categories: Class I (social or traditional games, which would not be regulated); Class II (bingo or lotto); and Class III (all other gambling, including roulette, slot machines, dice and parimutuel betting).

The measure would authorize federally recognized tribes to engage in, license and regulate Class II and Class III gambling within Indian country if the tribal governing body adopted an ordinance or resolution which was approved by the Commission and did not violate State law.

Such activities would be prohibited if they violated Federal law or the public policy and criminal laws of the State in which they were located. Introduced Nov. 13, 1985; referred to Committee on Interior and Insular Affairs.

S. 902 (DeConcini et al.)
Authorizes federally recognized tribes located within the administrative jurisdiction of the existing area offices of the Bureau of Indian Affairs to organize and establish regional Indian gaming commissions having the same authority as the Secretary of the Interior with respect to approval of Indian gambling activities.

Such activities would be prohibited if they violated Federal law or the public policy as a matter of criminal law in the State where they were located.

Gambling in Indian country would be illegal unless conducted pursuant to tribal ordinance or resolution approved by the Secretary or the commissions.

Any licensing and regulation of gambling would have to be "at least as restrictive" as applicable State laws. Introduced Apr. 4, 1985; referred to Committee on Indian Affairs. Hearing held June 26, 1985 (S.Hrg. 99-207).

S. 2557 (Laxalt et al.)
Exempts "ceremonial" gambling from regulation. Bingo would be regulated by a Federal Commission and all other forms of gambling would be controlled by the laws of the States where the tribes are located. "Bingo" would be narrowly defined, not to include pull tabs, punch boards, or electronic video bingo, for example.

Tribally operated bingo would be forbidden in any State which does not permit legal bingo (there are currently five such States).

A three-member Native American Bingo Commission would be established, two members of which would be appointed by the Secretary of the Interior, and one by the Attorney General, the purpose of which would be to license and regulate tribal bingo operations.

Any federally recognized tribe (except in the five aforementioned States) could apply for a license to operate bingo. The Commission would then conduct a background investigation to determine the applicant's fitness and ability (and that of any management contractor) to run a bingo operation in compliance with the law and for the general economic benefit of the tribe. Introduced June 16, 1986; referred to Committee on Indian Affairs.

Richard S. Jones

MLC-071

NAVAJO-HOPI RELOCATION

...land disputes between Indian Tribes that originated more than a century ago...

P.L. 93-531, as amended by P.L. 96-305, provided a legislative solution to a land dispute in Arizona between the Navajo and Hopi Indian tribes that originated more than a century ago. The Navajo and Hopi Indian Relocation Commission established pursuant to this legislation issued a plan for relocation of individuals of each tribe residing on lands partitioned to the other pursuant to a court order resulting from the 1974 statute. This relocation was to be completed by July 6, 1986, a deadline which was not possible to meet. Dissatisfaction with implementation of the legislation has been expressed by the Navajo, who comprise the great majority of relocatees, and some Members of Congress. The Hopi tribal government has rejected any attempts by the Navajo to negotiate changes in the provisions of relocation mandated by current law. At issue is the extent to which Congress may become involved in changing any current relocation procedures.

As of July 10, 1986, according to Relocation Commission figures, a total of 1,024 Indian families had relocated (458 to on-reservation homesites and 566 to off-reservation sites).

1,558 families certified as eligible for relocation remain to be relocated. 1,549 of these are Navajo while 9 are Hopi. According to the Commission's most current analysis, at least 230 of these Navajo families are still living on Hopi-partitioned lands, while no Hopi are living on Navajo-partitioned lands. The remaining 1,300-plus Navajo families are in the process of being relocated. In addition, the ssion estimates that there are 70 Navajo families living on the Hopi-partitioned lands who have not applied for relocation benefits.

Problems have centered around criticisms that relocatees have been provided in some instances with inadequate housing, that counseling of relocatees, both before and after relocation by the Relocation Commission, has been inadequate; that an inordinate number of relocatees have been "forced" to resell their homes and defrauded in the process by unscrupulous agents; and that the slow pace of relocation would result in the failure to meet the July 1986 deadline and excessive cost overruns.

To these charges the Relocation Commission responds that it has initiated a program to repair or renovate defective housing acquired during the first three years of the relocation program; that it has provided counseling services to the best of its ability within the limits possible; and that steps to minimize resale, such as deed restrictions, have been implemented with regard to off-reservation housing.

The 1986 deadline was not met and cost overruns are substantial. The Commission contends that it has relocated "the maximum number of families ... possible within the limit of our appropriations."

LEGISLATION

H.R. 4281 (Udall and McCain)

Navajos who have been certified as eligible for relocation who are now living on Hopi-partitioned lands would have until July 6, 1987, to relocate.

Approximately 360,000 acres of the 900,000 Joint Use Area acres partitioned to the Hopi Tribe as a result of P.L. 93-531 would be transferred to the Navajo Tribe. This would reduce the number of Navajo families still living on Hopi land.

If they chose not to relocate, these families would be given the opportunity to receive a 160-acre assignment where they currently reside, for which the Secretary of the Interior would pay the Hopi Tribe fair market value.

Approximately 360,000 acres of lands transferred to the Navajo Tribe for relocation purposes under the 1974 Act, as amended in 1980, would be transferred to the Hopi Tribe. In addition, mineral royalties from specified leases with the Peabody Coal Co. would be paid by the Navajo Tribe to the Hopi Tribe, over a specified period of years. Additional royalties would be used to establish a Navajo Rehabilitation Fund for the benefit of relocates.

About 79,000 acres of land in the Navajo Reservation containing the Hopi settlement of Moencopi would be transferred to the Hopi Tribe. Navajos who on Jan. 1, 1986, were living on these lands would be eligible to relocate under a specified timetable, or they could receive a 160-acre assignment where they currently reside.

Outstanding legal disputes between the two tribes deriving from the land dispute would be extinguished.

The Relocation Commission would be abolished 180 days after passage of the amendment and its responsibilities transferred to an Office of Navajo Relocation, within the Department of the Interior. Introduced Feb. 27, 1986; referred to Committee on Interior and Insular Affairs. Hearings held May 8, 1986.

H.R. 4872 (Richardson)

Places a moratorium on relocation pending further study of the issue. Introduced May 21, 1986; referred to Committees on Appropriations, and Interior and Insular Affairs.

S. 2545 (Cranston)

Places a moratorium on the relocation of Navajo and Hopi Indians under P.L. 93-531, and for other purposes. Introduced June 11, 1986; referred to Committee on Indian Affairs.

S. 2651 (DeConcini)

Places a moratorium on further relocations and development of the Navajo "new lands" until final settlement in accord with provisions of this measure is achieved.

Provides for arbitration of the dispute by three arbiters chosen by the President of the American Bar Association, allowing an option for the tribes to negotiate the settlement between themselves.

If the Hopi Tribe did not elect to arbitrate, a compulsory land exchange would be directed. This would comprise transfer to the Navajo Tribe of approximately 350,000 acres of specified lands currently partitioned to the Hopi Tribe, thereby reducing the number of Navajo required to relocate. In exchange, approximately 350,000 acres of the current Navajo "new lands," acquired by the Navajo Tribe under the 1980 amendments to the relocation Act, would be transferred to the Hopi Tribe, and the Hopi would be paid specified royalties from Navajo leases with the Peabody Coal Co.

Navajo heads of household living on Hopi-partioned lands not transferred to the Navajo Tribe under this Act would be eligible to receive a 640-acre allotment, for which the Hopi Tribe would be paid fair market value by the U.S. Government. Such allotments would be subject to the jurisdiction of the Hopi Tribe, subject to specifications contained herein.

Specified claims held by the Hopi against the Navajo would be extinguished, and the Hopi would be paid $75 million by the United States as compensation for such extinguishment.

A Navajo Rehabilitation Fund would be established, to be funded by 50% of the revenue derived by the Navajo Tribe from development of coal or other mineral resources on lands in the Paragon Resources area in New Mexico. Such funds would be available to the Navajo Tribe solely for purposes contributing to the rehabilitation and improvement of the economic, educational and social condition of Navajo families who were directly adversely affected by the relocation program.

All Navajo interest in the Moencopi area of the Navajo Reservation, comprising approximately 79,000 acres, would be transferred to the Hopi Tribe. Navajo residents of this area would have until Jan. 1, 1988, to relocate, and heads of such households would be eligible for all relocation benefits under sec. 15 of the 1974 relocation Act (unless such persons elected to receive allotments, as provided herein).

The Navajo and Hopi Indian Relocation Commission would be dissolved 180 days after passage of the Act. Responsibility for relocation activities would be transferred to a Special Assistant appointed by the Secretary of the Interior. Introduced July 17, 1986; referred to Committee on Indian Affairs.

Richard S. Jones

NATIONAL DEFENSE AND SECURITY

MLC-072

BINARY CHEMICAL WEAPONS PRODUCTION: ISSUES FOR CONGRESS

...the debate continues...

The United States has not produced chemical munitions since President Nixon declared a unilateral moratorium on their manufacture in 1969. Proponents of the resumption of chemical weapons production believe that the U.S. stockpile dating from 1969 does not provide an adequate retaliatory capability to deter Soviet use of chemical weapons in any future conflict. Representatives of the Department of Defense have testified that 90% of the current chemical agent stockpile is not militarily useful. It is either in bulk storage (the United States has no filling facility) or loaded in obsolete munitions. The remaining 10% is said to suffer from an inappropriate agent/munition mix, with persistent nerve agent only in short range munitions and non-persistent agent in long range munitions.

Furthermore, the Reagan Administration maintains that the inadequacy of the current U.S. stockpile removes any incentive for the Soviet Union to act sincerely in the current multi-lateral chemical arms control negotiations in Geneva.

To correct this situation, DOD seeks to produce 155mm shells carrying non-persistent nerve agent for short range attack, and the Bigeye bomb to deliver persistent agent for long-range interdiction. DOD has chosen to produce "binary" chemical weapons because lethal agent is not formed until the munition is fired or launched, thereby increasing the safety of transportation and storage, and the ease of disarming the munitions in the future.

Opponents of resuming chemical weapons production question the Administration's assessment of the Soviet chemical threat, pointing to the difficulty of assessing the offensive chemical capability of the Soviet Union. They also maintain that, though limited, the current chemical stockpile remains a valid deterrent against Soviet use of chemical weapons. They point out that our NATO allies have not agreed to deployment of binary chemical weapons on their territory. A portion of the current stockpile is now deployed in Europe, and binary opponents believe that the inability to deploy the new chemical weapons would reduce their deterrent value. Critics of the binary program also point to an on-going controversy over the performance of the Bigeye bomb in operational testing. The final objection of the binary production opponents has been that the U.S. resumption of chemical weapons production would have a negative impact upon the prospects of arms control, and the United States would suffer a significant loss of international prestige in breaking its 15-year unilateral moratorium.

The Continuing Resolution for Appropriations (P.L. 99-190) the full DOD request for production of the 155mm chemical projectile ($21.7 million) and the full amount requested for Bigeye bomb production facilities ($98.3 million). Of the $43.6 million requested for the production of the Bigeye bomb, the Continuing Resolution appropriated only $6 million, to be placed in the Navy RDT&E account to fund further operational testing.

The Continuing Resolution also included a general provision that amended Section 1411 of the DOD Authorization Act, 1986 (P.L. 99-145) to: (1) require the President to certify to Congress that a force goal stating the requirement for modernization of the U.S. share of the NATO chemical deterrent has been submitted to NATO and adopted by the North Atlantic Council; (2) require the President to certify that a contingency plan for the deployment of binary chemicals to Europe in the event of crisis has been developed in cooperation with the Supreme Allied Commander, Europe; (3) subject obligation of funds for the Bigeye components and further operational testing to the requirement that the Secretary of Defense submit a report describing the operational requirements of the Bigeye, its actual performance in operational testing to date, and any exceptions deemed acceptable; (4) prohibit obligation of funds for the 155m projectile before Oct. 1, 1986, and then only if the NATO consultation requirements have been satisfied; and (5) prohibit final assembly of the 155mm projectile before Oct. 1, 1987.

In July 1986, President Reagan certified to the Congress that NATO had adopted a force goal for the modernization of the U.S. chemical deterrent and a contingency deployment plan had been developed in cooperation with the Supreme Allied Commander, Europe. The President announced that he would direct the production of the 155mm chemical projectile to begin. Simultaneously, the Secretary of Defense transmitted the report to Congress concerning the Bigeye operational requirements and tests.

Opponents of the binary program have strenuously objected to the Administration's certification. They maintain that the NATO force goal was not adopted by the North Atlantic Council, as called for in P.L. 99-190, but rather by the NATO Defense Planning Committee. They also point to the recent General Accounting Office (GAO) report (PEMD-86-12BR) that seriously questions the operational testing of the Bigeye bomb. The Administration replied to these objections, pointing out that according to NATO procedure force goals are properly adopted by the Defense Planning Committee, not the North Atlantic Council. With regard to the Bigeye, DOD maintains that the critical GAO report was based upon obsolete data.

The House Armed Services Committee endorsed continuation of binary munitions production "at a minimum pace," recommending only $32.6 million for production of the 155mm chemical artillery projectile, and $10.0 million for the production of the Bigeye bomb. The Committee further recommmended prohibiting obligation of Bigeye procurement funds until operational testing has been completed and the results evaluated by the General Accounting Office. The Committee also directed the Secretary of Defense to submit a report to both Armed Services Committees evaluating the advantages of the Bigeye bomb over stand-off long-range weapons systems.

In passing the FY87 DOD Authorization bill, the House accepted the Committee's recommended funding levels, but also adopted (210-209) a restrictive amendment offered by Representative Porter. The Porter amendment prohibits the use of DOD funds appropriated for FY86 and FY87 for: 1) the procurement of binary chemical munitions or their components, or 2) the establishment of a production base for such munitions, prior to Oct. 1, 1987. The Porter amendment further stipulates that U.S. chemical weapons currently stored in Europe may not be removed unless they are replaced with binary chemical weapons stationed on the territory of at least one European member of NATO.

The Senate Armed Services committee recommended approval of the DOD chemical weapons budget request without change. The Senate defeated an amendment offered by Senator Pryor deleting procurement funds (51-50), with Vice-President Bush casting the deciding vote, and approved funds for binary chemical weapons as requested.

LEGISLATION

H.R. 4428 (Aspin, by request)

National Defense Authorization Act for FY87. Authorizes appropriations for the Department of Defense for FY87. Authorizes strengths for active duty and reserve armed forces. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Reported to House (amended) July 25 (H.Rept. 99-718). Passed House Aug. 15, 1986.

S. 2638 (Goldwater)

National Defense Authorization Act for FY87. Authorizes appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for FY87, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for national security programs for the Department of Energy for FY87, and for other purposes. Reported to Senate (S.Rept. 99-331) July 8, 1986. Passed Senate Aug. 8, 1986.

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MLC-073

DEFENSE BUDGET - FY86: CONGRESSIONAL ACTION TO DATE

...a $10 billion reduction...

President Reagan submitted his FY86 defense budget to Congress on Feb. 4, 1985. For the National Defense Function, the President requested $322.2 billion in budget authority, with outlays estimated at $285.7 billion. For the Department of Defense, the President's request totaled $313.7 billion in budget authority, for an estimated real increase of 5.9% over FY85.

In action on the FY86 defense budget, Congress first approved a concurrent budget resolution on Aug. 1, setting a target of $302.5 billion in budget authority for national defense programs in FY86. The approved level represented 0% real growth over FY85 appropriations. Final congressional action on the FY86 DOD Authorization bill was delayed until Oct. 29 in the House because of dissatisfaction with the authorized level and several provisions dealing with procurement reform, ASAT weapons, and binary chemical weapons. The final level of authorizations was consistent with the target of $302.5 billion established in the budget resolution.

After considerable delay Congress finally completed action on Dec. 19 on appropriations for the Department of Defense, approving a level of funding consistent with an overall national defense function total of $297.4 billion in new budget authority. Appropriations for programs normally covered in the DOD Appropriation Bill were provided in a continuing resolution, H.J.Res. 465. The approved level of funding is $25 billion less than the Administration's original request, $5 billion less than the level approved in the first budget resolution, and represents real growth of -2%, the first year of negative real growth in the defense budget since FY79.

Major reductions in the FY86 defense budget request include: $1.3 billion by buying 12 MX missiles instead of 48, $2 billion in operation and maintenance programs from lower than expected inflation, fuel costs, and cash surpluses in stock funds, $2.9 billion from DOD's contribution to the retirement of future members of the armed forces, and about $1 billion from the Administration's Strategic Defense Inititative ("Star Wars") program.

Final FY86 appropriations for defense programs were reduced by an additional $11 billion, as required by the Gramm-Rudman-Hollings deficit reduction law. Although the Supreme Court ruled the GRH automatic sequestration process unconstitutional, Congress approved the GRH reductions in a joint resolution (H.J.Res. 672). As a result of the GRH budget cuts, the FY86 defense budget is between 6%-7% smaller in real terms than the FY85 defense budget. No new funding was provided for defense programs in the FY86 Supplemental Appropriations bill, although several transfers and rescissions were approved.

LEGISLATION

P.L. 99-145, S. 1160

National Defense Authorization Act for FY86. Authorizes appropriations for the military functions of the Department of Defense and prescribes personnel levels for the Department of Defense for FY86, authorizes certain construction at at military installations for such fiscal year, authorizes appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes. Reported to Senate in lieu of S. 1029 (no report) May 16, 1985, in response to Senate action on the First Concurrent Budget Resolution. Passed by Senate (92-3) on June 5, 1985. Conference report (H.Rept. 99-235) agreed to by the Senate on July 30 by a vote of 94-5. Agreed to by the House by a voice vote in Oct. 29. Signed into law Nov. 8, 1985.

P.L. 99-173, H.R. 3327 (Hefner)

Military Construction Appropriation Bill, 1986. A bill making appropriations for Military Construction for the Department of Defense for the fiscal year ending Sept. 30, 1986, and for other purposes. Reported to House from Committee on Appropriations (H.Rept. 99-275) Sept. 18, 1985. Passed the House on Oct. 17 by a vote of 373-36. Reported as amended, to the Senate by the Committee on Appropriations (S.Rept. 99-168), Oct. 31. Passed the Senate on Nov. 7 by a vote of 94-1. Conference report (H.Rept. 99-380) filed in House Nov. 19. House agreed to conference report Nov. 20. Senate agreed to conference report Nov. 21. Signed into law Dec. 10, 1985.

P.L. 99-190, H.J.Res. 465 (Whitten)

Further Continuing Appropriations, 1986. A joint resolution making further continuing appropriations for FY86. Reported to the House from Committee on Appropriations (H.Rept. 99-403) on Nov. 21. Funding for Department of Defense same as approved in House-passed version of FY86 DOD Appropriation Bill, H.R. 3629. Passed by House (212-208) on Dec. 4. Reported to Senate from Committee on Appropriations Dec. 6. Recommended funding for Department of Defense same as levels in SAC recommended version of FY86 DOD Appropriation Bill. Report (S.Rept. 99-210) filed Dec. 7. Passed Senate by voice vote Dec. 10. Conference report (H.Rept. 99-443) rejected by House (170-239) on Dec. 19. Further conference report (H.Rept. 99-450) agreed to by House (261-137) and Senate (voice vote) on Dec. 19. Signed into law Dec. 19, 1985.

P.L. 99-349, H.R. 4515

Urgent Supplemental Appropriation Bill, 1986. Making supplemental appropriations for FY86. Reported to House by Committee on Appropriations (H.Rept. 99-510) Mar. 25. Passed House (242-132) May 8. Reported to Senate by Committee on Appropriations with amendment (S.Rept. 99-301) May 15. Passed Senate (71-8) June 6. House agreed to conference report (H.Rept. 99-649) June 24 by a vote of 355-52. Passed Senate (voice vote) June 26, 1986. Signed into law July 2, 1986.

H.J.Res. 672 (Wright)

A joint resolution ratifying and affirming the report of Jan. 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to FY86. Passed the House (339-72) and the Senate (voice vote) July 17, 1986.

H.Con.Res. 152 (Gray, W.)

First Concurrent Resolution on the Budget for FY86. Revising the congressional budget for the U.S. Government for FY85 and setting for the congressional budget for the U.S. Government for fiscal years 1986, 1987, and 1988. Reported to House by Committee on the Budget May 20, 1985 (H.Rept. 99-133, part 1). Passed by House May 23 by a vote of 258-170. Conference report (H.Rept. 99-249) agreed to on Aug. 1, by a vote of 309-119.

S.Con.Res. 32

First Concurrent Resolution of the Budget for FY86. An original concurrent resolution setting forth the congressional budget for the U.S. Government for FY86 through FY88, and revising the congressional budget for the U.S. Government for FY85. Reported to Senate by Committee on the Budget Mar. 20, 1985 (S.Rept. 99-15). Passed Senate May 10, 1985. Conference report (H.Rept. 99-249) agreed to on August 1 by a voice vote of 67-32.

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MLC-074

DEFENSE BUDGET – FY87: CONGRESSIONAL ACTION TO DATE

...negative growth...

President Reagan submitted his FY87 defense budget to Congress on Feb. 5, 1986. For the National Defense Function, the President requested $320.3 billion in budget authority, with outlays estimated at $282.2 billion. The Administration's defense budget request represents a real increase of 8% over FY86 funding.

On July 26, Congress approved a budget resolution capping defense funding at $292 billion, but also established a contingency fund of $6.9 billion for defense programs to meet "critical unmet needs." The additional funding would be available only if the President requests it and recommends off-setting reductions through revenue increases or spending cuts that are approved by Congress. The level of defense funding approved in the budget resolution is $28 billion less than requested by the Administration and represents negative real growth of between 1%-2%.

Both the Senate and House have passed their versions of the National Defense Authorization Act for FY87, which now awaits action by conferees. The Senate version of the bill (S. 2638), approved Aug. 9 by a vote of 83-3, authorizes $295 billion for national defense programs in FY87, representing zero real growth. The House version of the bill (H.R. 4428), approved Aug. 15 by a vote of 255-152, authorizes $285 billion, representing negative real growth of 4%. Both the House and Senate protected readiness programs in making cuts, but differed in action on the Strategic Defense Initiative (SDI) (House: $3.1 billion, Senate: $3.9 billion), the Small ICBM (House: reduction of $700 million, Senate: full funding), the Trident submarine (House: no funding, Senate: funding for one boat as requested), and "strategic homeporting" (House: funding for construction at one port only, Senate: funding for construction at two ports). In addition, the House significantly altered Administration policies on nuclear testing, chemical weapons, ASAT weapons, and strategic arms control. By comparison, the Senate made only minor adjustments in Administration policies, except for SDI and the Small ICBM program.

The Senate Appropriations Committee is scheduled to mark-up the FY87 DOD Appropriation bill shortly after Congress returns from its Labor Day recess. In the meantime, the House Appropriations Committee reported its version of the bill (H.R. 5438) on Aug. 14, authorizing funds consistent with a national defense total of $284 billion. The HAC included in its recommendations provisions relating to nuclear testing, ASAT testing, chemical weapons, and arms control compliance that are identical or similar to provisions in the House passed version of the defense authorization bill.

LEGISLATION

H.R. 4428 (Aspin, by request)

National Defense Authorization Act for FY87. Authorizes appropriations for the Department of Defense for FY87. Authorizes strengths for active duty and reserve armed forces. Referred to Committee on Armed Services Mar. 18. Reported to House (amended) on July 25 (H.Rept. 99-718). Passed House (255-152) on Aug. 15.

H.R. 5052 (Hefner)

Military Construction Appropriations Act, 1987. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending Sept. 30, 1987, and for other purposes. Reported to House June 19 (H.Rept. 99-648). Passed House (249-174) June 25, 1986. Referred to Senate Committee on Appropriations on July 14. Reported to Senate on Aug. 5 (S.Rept. 99-368). Passed Senate, amended on Aug. 13, by a vote of 59-41.

H.R. 5438 (Chappell)

Department of Defense Appropriations Bill, 1987. A bill making appropriations for the Department of Defense for the fiscal year ending Sept. 30, 1987, and for other purposes. Reported to the House from the Committee on Appropriations on Aug. 14 (H.Rept. 99-793).

S. 2638 (Goldwater)

National Defense Authorization Act for FY87. A bill to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for FY87, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for national security programs for the Department of Energy for FY87, and for other purposes. Reported to Senate (S.Rept. 99-331) July 8. Passed Senate Aug. 9 by a vote of 86-3.

S.Con.Res. 120 (Domenici)

An original concurrent resolution setting forth the Congressional Budget for the U.S. Government for the fiscal years 1987, 1988, and 1989. Reported to Senate Mar. 24, 1986 (S.Rept. 99-264). Passed by the Senate (70-25) May 2. Conference report passed by House (333-43) and Senate (voice vote) on June 26.

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MLC-075

DEPARTMENT OF DEFENSE REORGANIZATION

...enactment virtually assured...

There has been growing concern in recent years that the perceived incapacity of the military services to (1) conduct joint operations in the field and (2) acquire weapon systems and equipment capable of meeting operational requirements at reasonable cost are due in large part to organizational deficiencies in the Department of Defense (DoD). Beginning in 1982, the Congress began considering major DoD reorganization legislation for the first time since 1958, and enactment of major organizational reform in 1986 seems virtually assured.

A conference committee is currently meeting to resolve differences between House and Senate passed legislation that would both make major changes in virtually all aspects of DoD organization. There are no fundamental differences between the objectives of the House and Senate bills. Both would (1) modify the existing Joint Chiefs of Staff (JCS) structure to create a more centralized national joint military command headed by a more powerful JCS Chairman; (2) increase the authority and influence of the commanders-in-chief (CINCs) of the unified and specified combatant commands that control U.S. military forces deployed around the world vis a vis the rest of DoD; (3) merge substantial components of the staffs of the civilian Service Secretaries (of the Army, Navy, and Air Force) and the military service chiefs (Chiefs of Staff of the Army and Air Force, Chief of Naval Operations, Commandant of the Marine Corps); (4) reduce the size of DoD and military service headquarters staffs; and (5) increase systematic oversight within DoD of centrally-controlled defense agencies responsible for DoD-wide activities (such as the Defense Intelligence and Logistics Agencies). Both bills involve implicit acceptance of the notion that DoD's existing organizational structure suffers from excessive service independence and inadequate central planning, direction, and leadership. Those who disagree with this assumption assert that either the organizational status quo is satisfactory, or in fact that even the present set of joint, central institutions within DoD unnecessarily constrains the freedom and initiative of the individual services.

In general, the House bill is much more specific than the Senate bill in spelling out, in statute, how the goals of increased "jointness" and centralized policy-making are to be achieved. It describes in detail, for example, how a new occupational specialty for military officers concentrating on joint, interservice operations is to be created; prescribes complete integration of the service secretariats and the military service chiefs' staffs; and is much more explicit in granting more authority to the CINCs of the combatant commands. The Senate bill, in contrast, is more general and leaves more latitude to DoD in implementing the broad goals of the reorganization effort. The Senate bill also provides for changes in Senate procedure for legislative control and oversight of DoD, and directs and suggests various ways in which the Congress should reduce alleged congressional "micromanagement" of DoD and concentrate its efforts more on broader policy issues. The House bill does not address the issue of change in the way the Congress deals with defense policy.

LEGISLATION

H.R. 4370 (Nichols)

Bill Nichols Department of Defense Reorganization Act of 1986. Approved for full Committee action, amended, 10-2, by the Investigations Subcommittee, House Armed Services Committee, June 12, 1986. Ordered to be reported, amended, by full House Armed Services Committee June 25, 1986. Reported, amended (H.Rept. 99-700), July 21, 1986. Passed House, amended, as an amendment to H.R. 4428, the FY87 National Defense Authorization Act (constituting a new Division D of H.R. 4428), Aug. 5, 1986, 406-4 (Record Vote No. 281). Combined with text of H.R. 3622, the JCS Reorganization Act of 1985 (H.Rept. 99-375; passed House, amended, Nov. 20, 1985), as an amendment to the Senate amendment to H.R. 3622 (originally S. 2295, the Barry Goldwater Department of Defense Reorganization Act of 1986), and passed House by unanimous consent Aug. 11, 1986. House insisted on its amendments to the Senate amendment to H.R. 3622 and requested a conference Aug. 11, 1986.

S. 2295 (Goldwater)

Barry Goldwater Department of Defense Reorganization Act of 1986. Marked up by Senate Armed Services Committee Feb. 4-Mar. 6, 1986. Approved by full Senate Armed Services Committee Mar. 6, 1986, 19-0. Reported (S.Rept. 99-280) Apr. 14, 1986. Passed Senate, amended, May 7, 1986, 95-0 (Record Vote No. 93), after striking all but the enacting clause of H.R. 3622 and substituting in lieu thereof the text of S. 2295. Senate disagreed to House amendments to the Senate amendments to H.R. 3622 and requested a conference Aug. 11, 1986.

Robert L. Goldich

MLC-076

FIGHTER AIRCRAFT COMPETITION: F-16 VS. F-20

...In quest of a cheaper fighter...

During 1985 there was some congressional interest in Northrop's F-20 fighter aircraft as an alternative to some of the F-16 fighters the Air Force plans to buy from General Dynamics. In August 1985, Defense Department officials directed the Air Force to compare F-16 and F-20 capabilities for continental air defense, with 318 of the winning aircraft to be procured.

The FY86 defense appropriations bill provided $200 million to begin procurement of 318 air defense fighters, either F-20s or F-16 versions. However, this funding (later reduced by Gramm-Rudman-Hollings legislation to $182.6 million) was not authorized until June 25, 1986, when the House and Senate agreed to the conference report on H.R. 4420/S. 2395 (Military Retirement Reform Act of 1986), which included language authorizing the competition and advancing its completion date from July 1 to Nov. 1, 1986.

In presenting the Administration's proposed FY87 budget, Secretary of Defense Casper Weinberger called for "a full and open competition for fighter aircraft to replace the Air National Guard's aging F-4s [as part of our continental air defense forces]." The Defense Department's FY87-FY91 defense plan projected competitive procurement of 270 air defense fighters -- 48 fewer than envisaged last year.

Interest in an F-20/F-16 competition has diminished during 1986. The House Armed Services Committee recommended and the House passed authorization of the $410.9 million requested for the competition, but it would require the Air Force to furnish "multiyear justification exhibits validating" the expected savings. The Senate Armed Services Committee recommended, and the Senate concurred, that no FY87 funds be authorized for the competition. Armed with guns and air-intercept missiles as well as air-to-surface ordnance, both supersonic planes are air combat fighters that can also be used in attack and close-air-support roles. The F-16 has greater range and payload capabilities, depending on mission and operating conditions. However, the F-20 can take off more rapidly and is expected to be easier to operate and maintain. Which of these aircraft would be cheaper for USAF to buy and operate is at issue.

The F-20 was developed for export to allies seeking aircraft less capable but more maintainable than high-performance U.S. fighters. However, foreign governments have insisted on buying aircraft in the U.S. inventory, such as the F-16, which has the prestige and pragmatic values of operational service with U.S., NATO, and Israeli air forces. Consequently, no foreign government has bought the F-20, which Northrop developed at corporate expense and has actively marketed since 1980 through the fighter export (FX) program.

In contrast to the F-16 (1,474 of which were delivered to U.S. and allied air forces by 1986), only three demonstration versions of the F-20 have been built. These prototypes have been tested and demonstrated since 1982, but the first two were lost in crashes (South Korea, Oct. 10, 1984; Labrador, May 14, 1985). Another aircraft with more engine thrust, internal fuel, wing area, and other improvements is under construction in what Northrop terms a "full production configuration." Northrup officials stated in 1985 that production would begin if there were a U.S. Air Force order in FY86 for about 180 aircraft in a multi-year program, with an opportunity for the F-20 to compete against the F-16 for other orders. Northrop believed that such a commitment by USAF would generate enough foreign sales to warrant production.

In April 1985, Northrop offered the Air Force 396 F-20s at $15.9 million (FY86-FY89$) per aircraft. In June 1985, General Dynamics made a counter offer to produce a less capable F-16C version at a unit price of $13 million in terms comparable to the F-20's $15.9 million price. The unit procurement costs of these aircraft has been estimated by the Congressional Budget Office in constant FY85 dollars as follows: $15.6 million for each standard F-16C; $12.8 million for each F-20; and $10.9 million for each specially-configured F-16C.

Arguments for and against USAF procurement of the F-20 include the following:

For the F-20

-- The F-20 should be procured as the only potential rival of the General Dynamics F-16, thus providing competitive pressure to reduce the price of the F-16.

-- The Air Force cannot afford the high-cost capabilities of the F-16C and its inventory objectives could be better met by procuring the smaller, less sophisticated, and more reliable F-20.

-- USAF procurement of the F-20 would encourage foreign purchases of an American plane that would be more suitable to the needs of some of our allies than the F-16.

Against the F-20

-- The F-20 is not a competitor to the F-16, since it is inferior to the F-16 in such relevant mission capabilities as range and payload and the actual costs of procuring and operating the F-20 as a USAF system are unknown.

– F-20 prototypes have not been fully tested to Air Force standards and combat requirements, and the versions tested are significantly different from the version to be produced.

– The F-20 would introduce another type to USAF's current mix of six tactical aircraft and would require separate training and logistical systems.

LEGISLATION

H.R. 4428 (Aspin, by request)
National Defense Authorization Act for FY87. Authorizes appropriations for the Department of Defense for FY87. Authorizes strengths for active duty and reserve armed forces. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Reported to House (amended) July 25 (H.Rept. 99-718). Passed House Aug. 15, 1986.

S. 2638 (Goldwater)
National Defense Authorization Act for FY87. A bill to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for FY87, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for national security programs for the Department of Energy for FY87, and for other purposes. Reported to Senate (S.Rept. 99-311) July 8, 1986. Passed Senate, amended, Aug. 9, 1986.

Bert Cooper

MLC-077

MX, "MIDGETMAN," MINUTEMAN, AND TITAN MISSILE PROGRAMS

...a key decision on Midgetman...

The Midgetman small intercontinental ballistic missile is scheduled to begin full-scale development (FSD), the last stage of R&D before procurement, in late 1986. A decision to proceed would be a crucial step: it would lock in many aspects of the system including missile characteristics and basing mode, would imply a deployment decision later, and would require substantially higher appropriations. An FSD decision would lead Congress to debate Midgetman's survivability and cost-effectiveness.

The Administration requested $1.4 billion for Midgetman for FY87 to permit the start of FSD. In action on the FY87 defense authorization bill, the Senate reduced Midgetman funding by $700 million, on grounds that funds should be used to pay for weapons initially deployed before 1990 at the expense of those deployed later. This action would preclude FSD for Midgetman in FY87. The House, in contrast, provided full funding for Midgetman.

MX is a less contentious issue this year than in prior years. Actions in 1985 resolved or narrowed the scope of controversy for 1986. The FY86 defense authorization act provided that at most 50 MX missiles shall be deployed in existing Minuteman silos, additional MX missiles shall be procured only for testing, 12 to 21 missiles "should" be procured in FY87, and more than 50 missiles may be deployed if "a basing mode other than existing Minuteman silos is specifically authorized by legislation." In 1986, number of missiles to be deployed is not at issue, as the Defense Department did not seek FY87 funds to deploy additional MX missiles. Procurement is somewhat controversial; the Senate supported procurement of 21 missiles and the House supported 12. There is a dispute over follow-on basing, a program examining survivable basing modes for deployment of a second 50 MX. The Senate Armed Services Committee cut the request from $389 million to $200 million; the House Armed Services Committee eliminated all funds for it.

LEGISLATION

P.L. 99-190, H.J.Res. 465
Further continuing appropriations for FY86. This measure includes FY86 defense appropriations, and was considered in lieu of H.R. 3629. Reported to House (H.Rept. 99-403) by House Appropriations Committee Nov. 21, 1985. Passed House, amended, 212-208, Dec. 4. Reported to Senate by Senate Appropriations Committee Dec. 5; report (S.Rept. 99-210) filed Dec. 6. Conference report (H.Rept. 99-443) filed in House Dec. 16. Revised conference report (H.Rept. 99-450) filed in House Dec. 19. The conference report contained the figures authorized for MX R&D ($734.1 million), MX procurement ($1,746 million), and deep basing R&D ($20 million). It eliminated the $100 million added to small ICBM R&D in the authorization act, leaving the requested amount, $624.5 million, and increased hard silo R&D funds to $102.2 million from $70 million authorized. On Dec. 19, the House agreed to the conference report (261-137), the Senate agreed to it, and it was signed into law. The Congressional Budget Office/Office of Management and Budget report of Jan. 15, 1986 (required by the Gramm-Rudman-Hollings deficit reduction process), if implemented, would cancel (sequester) $123.4 million in available funds for MX procurement, which would reduce FY86 outlays $29.3 million. The report also would cancel $89.6 million in available funds for ICBM modernization R&D, reducing FY86 outlays $43.8 million. The report does not indicate a specific amount for MX.

P.L. 99-145, S. 1160
FY86 Omnibus Defense Authorization Act. The conference bill was reported (H.Rept. 99-235, S.Rept. 99-118) on July 29, 1985. It provided $1,861 million to procure 12 missiles and related equipment, reduced MX R&D by $50 million, and added $100 million for R&D on the small ICBM and hard mobile launcher. It permanently limited the deployment of MX missiles in Minuteman silos to 50. Regarding the

small ICBM, conferees directed the Secretary of Defense to provide, by Oct. 1, 1985, a report addressing design tradeoffs and issues raised by the July 1985 GAO report on ICBM modernization. Conferees directed an independent review of the small ICBM and basing options be conducted by the Defense Science Board, due before submission of the FY87 defense budget. The conference bill required a legislative environmental impact statement to be completed prior to site selection or start of full-scale development of the small ICBM. Conference bill passed Senate, 94-5, on July 30, and passed House, by voice vote, Oct. 29. Measure signed into law (P.L. 99-145) Nov. 8, 1985.

H.R. 4428 (Aspin)
National Defense Authorization Act, FY87. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Reported to House (H.Rept. 99-718) July 25. The committee recommended full funding for Midgetman, reducing MX procurement funds by $303.4 million, and reducing MX R&D by $200 million. It recommended deleting funds for follow-on basing, the program to develop a survivable basing mode for a second 50 MX missiles, on grounds that MX cannot be made survivable. On Aug. 11, the House defeated, 178-210, an amendment by Representative Bennett to eliminate MX procurement funds and reallocate the funds to conventional forces and deficit reduction. On Aug. 13, the House defeated, 56-365, an amendment by Representative Dellums to provide an alternative defense budget that would have deleted all funds for MX, Midgetman, and other weapons. Passed House, amended, 255-152, on Aug. 15, 1986.

S. 2638 (Goldwater)
National Defense Authorization Act, FY87. Three authorization bills (S. 2199, Department of Defense; S. 2218, Department of Energy for national security; and S. 2132, military construction) were referred to the Committee on Armed Services in March 1986. The committee reported S. 2638 as an original bill July 8 (S.Rept. 99-331). The committee bill contained full funding for MX and reduced the request for follow-on basing and deep underground basing by $189 million. It reduced Midgetman funding by $700 million as part of an effort to give priority to programs to be deployed initially before 1990 at the expense of those to be deployed later; this action would preclude the start of full-scale development for Midgetman in FY87. No amendments were offered on MX or Midgetman. Passed Senate, amended, 86-3, on Aug. 9, 1986.

Jonathan E. Medalia
IB77080

MLC-078

THE SEAWOLF OR SSN-21 CLASS ATTACK SUBMARINE

...the submarine for the 21st Century...

The Seawolf or SSN-21 class submarine -- the "nuclear-powered attack submarine (SSN) for the 21st Century" -- is the Navy's proposed successor to the current Los Angeles (SSN-688) class SSN design, which has been in production since 1970. About $450 million in advanced procurement funding for the first SSN-21 submarine and about $630 million in program-related research and development funding were requested for the FY87 authorization and appropriation. The House-passed version of the FY87 National Defense Authorization Act authorizes almost full funding for the SSN-21 program. The Senate-passed version authorizes full funding.

The Navy's rationale for the SSN-21, briefly put, is as follows: In a general war with the Soviet Union, the primary mission of U.S. SSNs would be to destroy, disable, or tie down Soviet submarines. U.S. SSNs are greatly outnumbered by Soviet submarines, and must therefore be qualitatively superior. In the last few years, the Soviets have narrowed the qualitative gap by introducing several new classes of submarines with greatly improved capabilities. In response, the United States has improved the capabilities of the Los Angeles class design. These improvements, however, have exhausted the growth potential of the Los Angeles class design; there is no more space and weight for additional improvements. Soviet submarines will continue to improve and, by 1995, are expected to be a match for the improved Los Angeles class design. To maintain its qualitative edge, the United States therefore requires a completely new SSN design, namely, the SSN-21, which is to go to sea in 1995.

The SSN-21 would be slightly shorter than the SSN-688, but a good deal wider. As a result, it will have a submerged displacement of 9,150 tons, or about one-third more than the SSN-688. Compared to the improved SSN-688, the SSN-21 is designed to be quieter, faster, deeper diving, better armed, and and capable of under-ice operations. It would be equipped with the submarine advanced combat system (SUBACS), now in development.

In constant FY85 dollars, the first SSN-21 is to cost $1.6 billion; the fifth and following boats are to cost $1.0 billion each. These figures will be much higher when translated into current (or then-year) dollars. Full funding for the first boat is planned for the FY89 authorization and appropriation, but Congress faces a critical choice this year on the $450 million in advanced procurement requested for FY87. Approving this $450 million "down payment" on the first boat will create an incentive to approve the remainder of the funding for the first boat in FY89. Funding the first boat, in turn, will create an incentive to approve further boats in the class. The $450 million in advanced procurement funding will also pay for detailed design work that will finalize the submarine's design and thus make its cost relatively immutable. For both these reasons, Congress' decision this year on the $450 million in advanced procurement funding for the first SSN-21 will have a significant effect on the fate of the entire SSN-21 program. Congress' potential to affect the program in future years may not be as great.

The SUBACS research and development program last year experienced significant cost, schedule, and performance problems. In light of these problems, there were suggestions that the SSN-21 program should be deferred for one or two years, to ensure that SUBACS would be ready for the submarine. In response, the Navy restructured the SUBACS program and now says it will meet its cost, schedule and performance goals. Some in Congress, however, still express concern about the program.

LEGISLATION

H.R. 4428 (Aspin, by request)

National Defense Authorization Act for FY87. Reported to House (H.Rept. 99-718) by Committee on Armed Services, with amendment, July 25, 1986; passed House, amended, 255-152 (roll call #358), Aug. 15, 1986. The Committee recommended almost full funding of the Administration's request: $454.3 million in advanced procurement for the first boat, $310.9 million for RDT&E on the ship itself, and $316.6 million for RDT&E on submarine combat systems. The House did not alter the amounts in passing the bill.

S. 2638 (Goldwater)

National Defense Authorization Act for FY87. Reported to Senate (S.Rept. 99-331) by Committee on Armed Services July 8, 1986; passed Senate, amended, 86-3 (roll call #207), Aug. 9, 1986. The Committee recommended full funding of the Administration's request: $454.3 million in advanced procurement for the first boat, $317.6 million for RDT&E on the ship itself, and $316.6 million for RDT&E on submarine combat systems. The report stated that the Committee "recognizes the pressing need for a new design submarine and fully supports the SSN-21 program." The Senate did not alter the Committee's recommended amounts in passing the bill.

Ronald O'Rourke

MLC-079

TERRORISM: U.S. POLICY OPTIONS

...the priority concern...

In the year preceding the April 1986 U.S. attack on Libyan installations, a series of terrorist incidents were directed against Americans abroad in what appeared to be the start of a terrorist campaign against the United States. These incidents included the hijacking of TWA flight 847 to Beirut in June 1985 and the holding of its American passengers as hostages, the seizure of the Achille Lauro the following October and the killing of one of the passengers, and in November three American and two Israeli passengers were singled out, shot at close range and then dumped onto the runway when terrorists seized an Egyptian airliner and forced it to land on an airfield on Malta. Later, Egyptian commandoes attempted to storm the hijacked airliner resulting in 60 persons killed, the greatest number of casualties in any hijacking incident. During the same period, five Americans were being held as hostages by radical groups in Beirut.

These incidents were apparently interpreted by the Reagan Administration as a test of U.S. policy, and prompted an escalation of events leading up to the U.S. military actions against Libya in March and April 1986. President Reagan had promised "swift and effective retribution" against terrorists who committed crimes against Americans and the Libyan raids were the first instance of putting the hard line policy into practice.

Prior to the Libyan actions, U.S. attempts to counter terrorism had been largely defensive, such as enhancing embassy and consular defenses, providing additional training to overseas personnel, and improving contingency plans and incident management techniques. A Bureau of Diplomatic Security has been established in the Department of State under a new Assistant Secretary with responsibility for making sweeping improvements in the security of diplomatic posts and the protection of U.S. personnel serving overseas. In support of this effort, the Administration submitted a major bill known as the "Omnibus Diplomatic Security and Anti-Terrorism Act of 1986" (S. 2015), requesting $4.4 billion to fund the program over the next five years. Action is continuing on the bill in both Houses of Congress.

It remains to be seen what effect the U.S. transition to active countermeasures will have on the overall course of international terrorism, or what it will mean in terms of cooperation between the United States and its allies against the terrorist threat. Thus far, the results have been favorable based upon the apparent failure of Libya to mount retaliatory terrorist actions against the United States. Some also believe that the encouraging communique promising a more united front against terrorism that was issued by the heads of state at the Economic Summit in Tokyo in May 1986 indicated support for President Reagan's position. All of the western European governments have since reduced the size of diplomatic delegations from Libya in their countries. Public opinion in the European countries also appears to have come closer to approving the U.S. action, after a majority voiced disapproval immediately after the raid.

LEGISLATION

H.R. 4151 (Mica, for himself, and Snowe)
Omnibus Diplomatic Security and Anti-Terrorism Act. Establishes a Bureau of Diplomatic Security in the State Department, to be headed by an Assistant Secretary of State. Establishes a Diplomatic Security Service to perform security functions, including investigatory, warrant, and arrest powers. Authorizes funds for a 5-year program to upgrade or rebuild U.S. facilities abroad for security reasons and compensation for Government employees and members of their families who are victims of terrorism. Calls for strict safeguards, including metal detectors and cargo and baggage screening leaving U.S. ports, and for international cooperation for the maintenance of effective port security. Introduced Feb. 6, 1986; referred to Committee on Foreign Affairs. Passed House, amended (inserted text of H.R. 4418), Mar. 18, 1986. Passed Senate, amended, June 25, 1986.

James P. Wootten
IB81141

MLC-080

TRIDENT PROGRAM

...most survivable U.S. deterrent force...

Nuclear-powered ballistic missile firing submarines (SSBNs) are generally seen as the least vulnerable U.S. strategic offensive weapon system. Accordingly, they are believed to reduce incentives for either superpower to launch a nuclear first strike.

The FY87 Trident program includes authorization of 18 Trident submarines through FY91, with procurement of 20 submarines a possibility; bases for them in Bangor, Washington, and Kings Bay, Georgia; deployment of Trident I missiles and associated warheads; and development and deployment of the Trident II missile and associated warheads. In addition, Trident I missiles have been backfitted into 12 Poseidon SSBNs.

The submarine will replace Polaris and Poseidon SSBNs, which were first commissioned in 1959 and 1963, respectively. Compared to these earlier boats, Tridents are much larger, travel faster, run quieter, and stay at sea longer. Each will carry 24 Trident I missiles of about 4,000 nm range at full payload instead of 16 missiles of 2,500 nm range at full payload. Increased missile range will make SSBNs far harder to find by increasing tenfold the ocean area in which they can operate. The President's strategic program, announced Oct. 2, 1981, calls for developing the Trident II (D-5), i.e., the largest missile that can fit in Trident submarine launch tubes, and deploying it starting in 1989. Compared with Trident I, the Trident II is to have about the same range, about 75% more payload, and much improved accuracy. Both Trident I and II will carry multiple independently targetable reentry vehicles, enabling one missile to attack several targets, and could carry maneuvering reentry vehicles.

The United States will sell Trident II missiles to Britain, which will build four new SSBNs to replace its current fleet of four Polaris-armed SSBNs.

The Defense Department estimates Trident program costs at $16.943 billion for the first eight Trident submarines, associated Trident I missiles, and the base at Bangor, Washington; $16.287 billion for the next ten Trident submarines (which are to be first deployed with Trident II missiles) and the base at Kings Bay, Georgia; $34.882 billion for development of the Trident II and enough missiles and spares for 18 submarines; and $3.573 billion for backfitting twelve Poseidon submarines with Trident I missiles. The Administration requested $4.62 billion for the Trident program for FY87.

The Trident II missile is the most controversial aspect of the Trident program. It is designed to be accurate enough to threaten Soviet silo-based ICBMs. Supporters see it as needed to offset the Soviet advantage in counter-ICBM capability, to deny Soviet war aims if war occurs, and to compel the Soviets to divert funds from threatening U.S. forces to protecting their own. Critics argue that the missile harms U.S. security because its ability to destroy Soviet ICBM silos could force the Soviets to prepare to launch their ICBMs on warning of attack, in which case human, computer, or radar error could lead to nuclear war. Other once-controversial aspects of the Trident program are now less so. In particular, shipbuilding problems seem resolved.

LEGISLATION

P.L. 99-145, S. 1160
National defense authorization act, FY86. S. 674 introduced Mar. 18, 1985; referred to Committee on Armed Services. S. 1029 reported in lieu (S.Rept. 99-41) Apr. 29, 1985. The committee recommended reducing Trident I procurement by $20 million, Trident I R&D by $15 million, Trident submarine construction funding by $75 million, and Trident

submarine related R&D by $15 million, citing fiscal constraints. It left Trident II R&D and procurement requests unchanged.

P.L. 99-190, H.J.Res. 465

Further continuing appropriations for FY86. This measure includes FY86 defense appropriations, and was considered in lieu of H.R. 3629. Reported to House (H.Rept. 99-403) by House Appropriations Committee Nov. 21, 1985. Passed House, amended, 212-208, Dec. 4. Reported to Senate by Senate Appropriations Committee Dec. 5; report (S.Rept. 99-210) filed Dec. 6. Conference report (H.Rept. 99-443) filed in House Dec. 16. Revised conference report (H.Rept. 99-450) filed in House Dec. 19. The conferees recommended $1,354.7 million for Trident submarine construction, $582.0 million for Trident II procurement, $36.2 million for Trident I procurement, and $2,117.1 million for Trident II R&D, and $38.2 million for Trident I R&D. On Dec. 19, the House and Senate agreed to the conference report and it was signed into law.

H.R. 4428 (Aspin)

National Defense Authorization Act, FY87. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Reported to House (H.Rept. 99-718) July 25. Passed House Aug. 15, 1986. The committee recommended reducing Trident II R&D by $133 million and leaving the Trident I and Trident II procurement requests unchanged. The committee recommended deleting all funding for the Trident submarine requested for FY87, primarily because of budget constraints. On August 11, the House considered three amendments on Trident. It rejected, 188-211, an amendment by Representative Gejdenson to restore funds for the fourteenth Trident, the FY87 ship. It passed by voice vote an amendment by Representative Spratt to authorize funds for the fourteenth Trident only to the extent that national defense authorizations are reduced below $286.4 billion. It defeated, 94-306, an amendment by Representative Weiss to transfer all Trident II procurement funds ($1.4 billion) to Trident I procurement. On August 13, the House defeated, 56-365, an amendment by Representative Dellums to provide an alternative defense budget that would have deleted all funds for Trident II, the fourteenth Trident, and other weapons. Measure passed the House, amended, 255-152, on August 15.

S. 2638 (Goldwater)

National Defense Authorization Act, FY87. Three authorization bills (S. 2199, Department of Defense; S. 2218, Department of Energy for national security; and S. 2132, military construction) were referred to the Committee on Armed Services in March 1986. The committee reported S. 2638 as an original bill July 8 (S.Rept. 99-331). Passed Senate, amended, Aug. 9, 1986. The committee expressed its strong support of Trident II. It recommended fully funding the Administration's request for R&D and procurement for that missile, and recommended guarding the program against undistributed reductions. The committee also recommended fully funding the procurement requests for the Trident submarine and the Trident I missile. The Senate did not amend Trident portions of the bill. Measure passed Senate, 86-3, on August 9.

Jonathan E. Medalia
IB73001

MLC-081

U.S. DEFENSE ACQUISITION REFORM: MAJOR CONGRESSIONAL INITIATIVES

...alleged waste, fraud, and inefficiency...

The high degree of the Congress' involvement is a feature that distinquishes the most recent procurement reform campaign from past efforts. A number of factors have contributed to the greater prominence of its role, the most notable probably being (in addition to record levels of defense spending) strong competing demand for limited federal funds from non-defense programs with a high political interest profile. Many Members inclined to support DOD feel the need to respond to public concern over waste, fraud, and inefficiency in defense programs. There is little evidence to suggest that this high level of congressional involvement and interest in procurement reform will diminish during President Reagan's second term, given his Administration's continued commitment to substantial real growth in defense spending.

A significant trend in congressional action over the past five years has been increasing interest in major structural change in the procurement system. During 1981-1982, substantial effort was directed at expanding and upgrading cost reporting requirements for major weapon systems and fostering greater efficiency and reduced costs through what were essentially procedural changes (these, as well as other actions mentioned below, are discussed later in greater detail). More recently, however, the Congress has supported actions that seem to reflect decreasing confidence in the basic procurement structure.

For example, in late 1982, the Congress passed a law requiring the Defense Department to establish a new Inspector General's office and, in 1983, the Congress set up an independent operational testing and evaluation office. Under prodding from Capitol Hill, "competition advocates" have been appointed to the buying commands in each of the three major services (Army, Navy, and Air Force). Initiative has been taken to make the cost estimating process more accurate by establishing, in addition to the existing OSD-level Cost Analysis Improvement Group (CAIG), a new level of independent review at the individual service levels. More radical are challenges to the longstanding tradition of having individual services manage procurement of major systems. In its place is proposed a more centralized procurement organization, the most extreme alternative being an independent, civilian-operated DOD procurement agency.

The emerging support for structural change on Capitol Hill reflects growing impatience with a procurement system in which controlling costs tends, according to some observers, to be the least important of three factors that shape the procurement decisionmaking process -- the other two being (l) fulfilment of performance requirements, and (2) timely delivery. Wholesale revamping of the procurement system may not be politically feasible at this time. Thus, a piecemeal approach to structural reform has evolved for changing the DOD procurement system.

However, there are questions as to the ultimate benefits to be derived from adding layers of staff to existing ones without defeating the very purpose for which they were put in place. The adding of "independent" cost-control and efficiency staff at various levels and stages of decisionmaking may entail a substantial additional cost not only in terms of increased personnel and overhead expenses, but also in terms of program delays that can be anticipated as a result of such action.

LEGISLATION

H.R. 4428 (Aspin)

National Defense Authorization Act for FY87. Introduced Mar. 18, 1986; referred to Committee on Armed Services. Reported to House (amended) July 25 (H.Rept. 99-178). Passed House Aug. 15, 1986. Title IX is specifically aimed at improving the management of the defense acquisition process. Among its notable provisions are those that: define the duties/responsibilities of the recently created position of Under Secretary of Defense for Acquisition (Sec. 901); impose a more streamlined management structure and process overall for acquisition (Sec. 902-903); emphasize greater reliance on common item and commercially available purchases (Sec. 904-905); stress the need for improved training and career opportunities for DOD acquisition personnel(Sec. 906 and 916); increase protection of military and industry "whistleblowers" (Sec. 921-922); and clarify, expand, or modify previously imposed requirements concerning access to cost and technical data and small business participation in defense contracting (Sec. 911-913).

S. 2638 (Goldwater)

David E. Lockwood
IB85103

NATURAL RESOURCES

MLC-082

NATURAL RESOURCES: OVERVIEW, PUBLIC LANDS, NATIONAL FORESTS, AND PARKS AND RECREATION

...increased emphasis on revenue potential...

OVERVIEW

The Federal Government owns nearly one-third of the land in the United States -- about 732 million acres. The major land management agencies, and the percentage of the total Federal lands that they manage, are the Bureau of Land Management (in the Interior Department) -- 342 million acres (47%); National Park Service (Interior) -- 72 million acres (10%); Fish and Wildlife Service (Interior) -- 84 million acres (12%); and U.S. Forest Service (Agriculture) -- 192 million acres (26%). A large proportion of federally owned land is in Alaska -- 321 million acres -- and most of the rest is in the eleven Western States.

Overall, revenues produced are much larger than the budget outlays for major natural resource programs. The Department of the Interior's revenues, for example, were $8.1 billion for FY85 ($5.5 billion from leasing on the Outer Continental Shelf), while its budget authority for FY86 was $6.4 billion. The management of this vast amount of land with its large potential to generate revenue has involved diverse and sometimes conflicting resource management goals. The preservation of wilderness land, for example, can conflict with multiple use land objectives and the production of energy, mineral, or timber resources.

The change in Administration in 1981 evoked a change in general departmental policy, focused around three major concepts: (1) increasing production and economic utilization of the Federal resources, reflected in moves to accelerate Federal energy leasing, both on land and on the Outer Continental Shelf (OCS), and in policy statements on high priorities for energy development on public lands. (2) improving the economy through cutting the level of Federal spending. In the natural resources area, this has meant close scrutiny, lower priority, and reduced funding for such programs as environmental impact studies, funding for park land acquisition, recreation and historic preservation, and selected water development projects. Cutbacks have been proposed in numerous agencies that administer resource management programs. (3) coordinating, and to some extent consolidating, the management of natural resources.

Under provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177, otherwise referred to as the Gramm-Rudman-Hollings Act), a 4.3% reduction of almost all FY86 Federal appropriations for natural resource programs occurred on Mar. 1, 1986. Following the adverse ruling of the Supreme Court, these reductions were officially enacted by P.L. 99-366.

PUBLIC LANDS

The 342 million acres managed by the Bureau of Land Management (BLM) are located primarily in the 11 contiguous Western States (where the average Federal ownership figure is 52% of the land) and in Alaska. In addition, BLM administers mineral leasing and supervises minerals operations on the underlying mineral estate of Federal lands. The management of these lands and associated resources on them involves a number of controversial issues.

BLM Budget. The FY87 BLM budget estimates proposed a decrease of $24 million (4.2%) from the FY86 appropriated budget authority of $574 million; the proposed budget is a small (less than 0.1%) increase over BLM FY86 budget authority after the Gramm-Rudman-Hollings cut. Funds for management of lands and resources would be decreased by $17 million (4.3%) from the FY86 appropriations.

The proposed decreases in funds for land and resource management would include an $8 million (21.1%) decrease "due to decreased industry demand in coal, oil shale/tar sands, geothermal, and nonenergy mineral leasing; a $3 million (6.6%) decrease in lands and realty management by slowing conveyances and approvals of land transfers in Alaska for the State and Alaska Natives; a decrease of $2 million (10.4%) for management of wild horses and burros by decreasing removal of animals from the range and increasing emphasis on adoptions of these animals; a decrease of $3 million (33.9%) for forest management; and a decrease of $6 million (12.9%) for management of other surface resources (such as recreation and wildlife). Budget increases were requested for planning and data management, general administration and the oil and gas leasing program. In addition, the budget assumes that proposed legislation would be enacted to "interchange" lands between the Forest Service and BLM; a separate request of $3.4 million for BLM implementation costs is included in the FY87 budget request (see section below under National Forests and IB85101). The FY87 budget request also would decrease funding for the Oregon and California (O&C) grant lands by $5 million (8.3%) and funding for range improvements by $1.5 million (14.9%).

The House-passed FY87 BLM budget authority is $555 million, $5 million (1.0%) more than the Administration requested, but $19 million (3.3%) less than the FY86 appropriated budget authority. The primary changes to the Administration's request are $3 million more for O&C grant lands and $1 million more for forest and other surface resource management.

Grazing and Rangeland Management. Several rangeland management issues remain before the second session of the 99th Congress. Dec. 31, 1985, was the deadline for three statutory provisions relating to range management: 1) authorization in the Public Rangelands Improvement Act (PRIA) of the formula that sets the fee charged for grazing livestock on most Federal lands; 2) completion of two reports to Congress required by PRIA that give recommendations for future grazing fees and describe the results of an experimental stewardship program; and 3) authorization of grazing advisory boards in the Federal Lands Policy and Management Act (FLPMA). None of these deadlines was met by the Administration, nor has Congress enacted any related legislation.

Because Congress did not act on the grazing fee reauthorization, the President issued an Executive Order on Feb. 14, 1986, to continue indefinitely the current fee formula, with a minimum fee level of $1.35 per animal-unit-month (AUM); therefore, the 1986 grazing fee equals $1.35 per AUM. Although late, the Bureau of Land Management and the USDA Forest Service submitted the Final Report of the Grazing Fee Review and Evaluation, and the report on the experimental stewardship program, to Congress on Mar. 10, 1986. And, although legislative authority for grazing district advisory boards expired at the end of 1985, BLM rechartered 40 boards as an administrative action.

The only legislative activity that has taken place in grazing fees is during the FY87 budget process; H.Con.Res. 337 assumes an increase in the grazing fee from the current $1.35 per annual unit month to $2.70 per annual unit month (H.Rept. 99-598). The House Appropriations Committee included a provision in the FY87 Interior appropriations bill (H.R. 5234) which would have established a $4.68 base per animal unit month. This provision was struck from the bill during the floor debate on a point of order, as legislation in an appropriations bill. (See also IB85032 -- Rangeland Management Issues in the 99th Congress and archived IB85138 -- Wild Horses and Burros: Federal Management Issues.)

Energy Resources on Public Lands. Onshore energy resources on Federal lands are estimated by the U.S. Geological Survey (USGS) as follows for undiscovered resources: 35% of crude oil is on Federal lands; 30% of natural gas; 80% of shale oil; 40% of coal; 50% of uranium; and 50% of geothermal. All leasing in wilderness areas expired Dec. 31, 1983, by specific provisions of the Wilderness Act.

Roughly 186 million acres are in parks, wildlife refuges and wilderness areas (designated or under study) and thus currently unavailable for energy development. Other reasons for withdrawal of Federal land from leasing include military uses, national petroleum reserves, irrigation projects, native selections, and others. A total of about half of the Federal lands are withdrawn for a wide variety of reasons.

Coal. One-third of the Nation's coal reserves are federally owned, including 60% of Western coal. About 100 billion tons are considered recoverable reserves. Coal leasing on Federal lands received considerable attention in the 98th Congress, with concern centering especially on whether fair market value was received in coal lease sales.

The Secretary of the Interior announced on Feb. 26, 1986, that coal leasing will resume, ending a 2-year suspension of regional coal sales. However, because of the time required to complete planning and environmental analysis, the Department estimates the earliest likely date for new sales would be late 1987.

Federal coal leasing on public lands was rapidly accelerated during the first term of the current Administration. Controversy has centered on whether the Government has sought and/or obtained appropriate fair market value for leases recently issued. Also at issue is whether new leasing is appropriate at presently proposed rates, first because such large amounts of coal are already under lease, and also because of the relatively depressed market.

Lease sales were criticized as unwise and unneeded, given the amounts already leased and projections of persisting chronic overcapacity and because "overleasing" deprives the public of fair return value on public resources by driving down bonus bids. Proponents argue that existing leases may not be economically or environmentally suitable for mining, and that "overleasing" promotes competition, assures mining of "least cost coal," eliminates pent-up demand for reserves, and creates an inventory of uncommitted leased reserves in private hands that could be developed quickly if demand increases suddenly. (See also archived IB83058 – Leasing of Energy Resources on Public Lands and IB83111 -- Coal Leasing Policy.)

Oil and Gas. After controversy during 1984 over its oil and gas leasing procedures, the Interior Department is reviewing the noncompetitive, simultaneous oil and gas leasing system (SIMO), otherwise called the lottery system. Many interests want to make the entire onshore leasing system competitive to increase returns to the Treasury and reduce cheating. This could mean elimination, or major revision of, the SIMO programs. Industry interests prefer to retain the present system, which allows for both competitive and non-competitive types of leasing. Along with consideration of the SIMO program, additional environmental analysis and planning procedures are being considered to amend the Mineral Leasing Act of 1920 (H.R. 4741, H.R. 4826, S. 373, S. 2439). (See also IB85174 -- Onshore Oil and Gas Resources on Federal Lands: Current Issues in the Non-competitive Leasing System.)

NATIONAL FORESTS

Most forestry issues in Congress involve Federal forests and the agency that manages the majority of them: the Forest Service in the Department of Agriculture (USDA), which manages 191 million acres of land, primarily in the West.

Forest Service Budget. The FY87 budget request for the Forest Service is $1,287 million, $371 million (22.4%) below FY86 appropriations. The House passed an FY87 Forest Service budget of $1,425 million. This is $138 million (10.7%) more than requested, but still $234 million (14.1%) below FY86 appropriations and $170 million (10.7%) below FY86 budget authority after the Gramm-Rudman-Hollings cut.

The Administration proposed cutting Forest Service Research and State and Private Forestry (S&PF) budgets by $14 million (11.2%) and $33 million (56.8%) from the FY86 appropriation, respectively. The House chose to increase the Research budget from FY86 levels by $4 million (2.9%), but allowed a small decrease (0.2%) for S&PF budget.

The FY87 budget request for the National Forest System (NFS) was $894 million, down $184 million (17.0%) from FY86, but the $30 million Reforestation Trust Fund is listed separately for FY87 and the Administration is proposing a $52 million permanent appropriation for recreation funded from user fees; thus the FY87 NFS budget request is, in effect, $102 million (9.4%) below FY86 appropriations. The Administration proposed reducing timber sales from 11.4 BBF to 10.0 BBF, and requested only $3 million for land acquisition, down $29 million from FY86 (90.2%), and down $47 million from FY85.

The House rejected the permanent appropriation for recreation (because the authorizing legislation is yet to be introduced), but increased funding for recreation over the FY86 appropriation. The House-passed FY87 appropriation for NFS is $997 million, effectively $51 million (4.7%) below the FY86 appropriations. The timber sale level was restored to 11.2 BBF, and land acquisition was funded at $42.9 million, $10 million (31.9%) above the FY86 appropriation.

Forest Service road construction funding has been particularly controversial. In FY85, road appropriations totaled $230 million. The Administration's FY86 budget request was only $196 million, down $34 million (14.9%). The House reduced the road construction budget even further, to $151 million, but the Senate Appropriations Committee returned the road budget to the requested level. The FY86 appropriation sets road appropriations at $188 million, $7 million (3.8%) below the Administration's FY86 request. For FY87, the Administration requested $178 million, $10 million (5.2%) below the FY86 appropriation. The House-passed bill appropriates $14 million for 2 specific recreation roads and $134 million for the balance of the forest road program; this is a $54 million (28.5%) decline from the FY86 appropriations and $44 million (24.7%) below the Administration's request. The Appropriations Committee report directs that the reduced funding not affect support for timber purchaser road construction or reconstruction of multi-purpose and recreation roads. (See also IB85192 -- Forest Service Road Construction Funding.)

Timber Sales Below Cost. Numerous recent studies showed that the Forest Service consistently lost money on many timber sales when Federal costs and revenues were compared. The Forest Service argues that the multiple-use benefits of timber sales outweigh the financial losses. To address this issue, the Forest Service was appropriated $400,000 to develop a timber sale cost accounting system; a draft report was presented to Congress in June 1986. The House Appropriations' Subcommittee on Interior and Related Agencies asked the General Accounting Office (GAO) to investigate and examine the Forest Service data and methods. An initial report by GAO disagreed with Forest Service methodology on at least 14 items; a second GAO report found conditions in one national forest to be worse than the initial report had indicated. The House Appropriations Committee report on the FY87 appropriations bill stated, "it is the Committee's view that the proposed information system, as it is now constituted, will not meet the requirements of the Committee, and of the Congress, in carrying out adequate review of the timber sales program" (p. 71). In addition, the House Agriculture and Interior Committees each held 2 days of hearings on the sales-below-cost issue in early June 1985. The accounting system study and the issue of below-cost timber sales will likely be further explored by both House and Senate Appropriations Committees and Authorizing Committees.

Exchange of BLM and Forest Service Lands. One major Administration initiative, begun in 1985, is a proposed exchange of BLM and Forest Service lands. Approximately 15 million acres managed by the BLM would be transferred to the Forest Service, while about 9 million acres from the National Forest System would be transferred to BLM jurisdiction. The intent of this proposal, according to the Administration, is to consolidate into large areas management of the agencies' adjacent "checkerboard" holdings, to improve services, and to cut costs by eliminating overlapping responsibilities and duplicative offices and services. The Administration has estimated the cost savings to be $13 to $15 million annually, although $21 to $24 million is needed to conduct the transfer. To begin implementing the interchange, $15 million are included in the FY87 budget request for the Forest Service and $3 million in the FY87 BLM budget request, but the House-passed FY87 Interior appropriations bill would prohibit use of funds for implementing the proposed interchange until authorizing legislation is enacted. Legislation to change the jurisdiction over lands has been introduced at the Administration's request (H.R. 4303 and S. 2289). (See also IB85101 -- Federal Land Management Transfers.)

NATIONAL PARKS

A major issue concerning Federal parks and recreation policy is the funding for land acquisition for Federal and State parklands. Land acquisition funding peaked in 1978 and has since been significantly reduced.

The Land and Water Conservation Fund (LWCF) provides funding for land acquisition for all four Federal land managing agencies. The National Park Service (NPS) receives the largest share of the funds, which are derived largely from offshore oil and gas leases. The NPS portion is divided, in turn, into two parts: acquisition of new lands or inholdings for the NPS itself, and a matching grant program for State recreation land and facility projects. The LWCF was cut back from $261 million in FY85 to an appropriation of $168.6 million for FY86 and is further reduced in the FY87 budget request of the President. Under House-passed H.R. 5234, the NPS would receive $101.1 million under LWCF.

National Park Service Budget, FY87

The President's budget has again proposed sharp cutbacks in FY87 for Federal land acquisition, elimination of historic preservation and recreation grants to States, and an increase in recreation fees and charges to recover a greater portion of the costs of providing recreation opportunities at Federal facilities.

The Administration has submitted legislation to increase and expand user fees at Federal recreation areas owned by the National Park Service (NPS). Senator McClure introduced the Administration's proposal on Mar. 18, 1986 (S. 2204, by request). By increasing entrance fees and fees for campgrounds, tours, and so on, the proposal would increase the collections from $21.3 million to $73.7 million. Under the proposal, 20% would go to the General Fund, and 80%, or $59 million, would go to NPS. Other bills have been introduced (S. 2092, Chafee; S. 2130, Durenberger) that would also raise recreation fees under somewhat different arrangements.

The NPS FY87 Budget Justification states that "recreation fee revenues are not needed to continue the acquisition of Federal parkland." Instead, $38.78 million in programs financed in prior years from appropriated funds would now be funded by these new collections, and the remainder ($20.2 million) would be used to expand such programs. Enhanced programs would include Park Operations, the Fee Collection Activities themselves, Informational Publications, and the Volunteers in Parks Program. Programs for which fees would at least partially substitute for appropriations include Maintenance, Repair, and Rehabilitation Projects; Natural Resources Preservation Programs; Cultural Resources Preservation Programs; Visitor Transportation Systems; and the Harpers Ferry Center Exhibit Rehabilitation. If the legislation is not passed, these latter programs are recommended for decreases. The House Appropriations Committee (in H.Rept. 99-714) assumed the proposal would not pass and restored the proposed decreases.

For FY87, the Administration proposes a decrease in NPS Operations from $624.0 million to $596.5 million. (If the fee legislation is passed, the Administration is recommending a budget of $655.6 million, a net increase of $31.5 million.) Land Acquisition under the Land and Water Conservation Fund (LWCF) would be cut from $97.8 million to $15.3 million. Under the proposal, State grants under LWCF would be eliminated, and the remaining funds would pay for emergency acquisitions, court awards and the like. The Administration again proposed a rescission of funds appropriated for Land Acquisition for FY86. The Historic Preservation Fund would drop from $24.8 million to zero, and there is a proposal for the rescission of remaining FY86 appropriations. The rescission was not accepted by Congress.

In H.R. 5234, the House voted $628.9 million for Operations. It also voted for $51.1 million for NPS Land Acquisition and $50 million for LWCF State Grants. The House rejected the elimination of the Historic Preservation Fund, and voted $24.2 million for it.

The Senate Subcommittee on Public Lands and Reserved Water held oversight hearings on the matter of increased fee collection at Federal recreation areas on June 27, 1985. On June 6, 1986, Senator McClure offered an amendment to the FY86 Supplemental Appropriation which would have raised recreation fees. The amendment failed on a point of order.

Reassessing Recreation Needs and National Policies. Federal recreation policies and programs largely follow the recommendations set by the Outdoor Recreation Resources Review Commission (ORRRC) in 1962. On Jan. 28, 1985, President Reagan created a Presidential commission on outdoor recreation by executive order No. 12503, and the Commission is carrying out an extensive review of recreation needs and issues with a report expected by the end of 1986.

LEGISLATION

PUBLIC LANDS

H.R. 1827 (Pease).
Resources Cost Cutting and Conservation Act. Implements 5-year fee recommendations of the Grace Commission, including recreation fees, and authorizes competitive bidding for grazing privileges. Introduced Mar. 28, 1985; referred to Committees on Agriculture and on Interior and Insular Affairs.

H.R. 1960 (Miller, George)
Oil and Gas Leasing Reform Act. Amends the Mineral Leasing Act of 1920 to require competitive bidding, diligent exploration for, and development and production of oil and gas deposits on Federal lands. Introduced Apr. 3, 1985; referred to Committee on Interior and Insular Affairs. Subcommittee hearing held July 15, 1986.

H.R. 2790 (Cheney)
Makes permanent current formulas for determining public land livestock grazing fees. Introduced June 16, 1985; referred to Committee on Interior and Insular Affairs.

H.R. 4713 (Darden)
Public Rangelands Fee Act of 1986. Sets forth a different fee formula for determining grazing fees on public rangelands based on comparisons with private land fees. Introduced Apr. 30, 1986; referred to Committee on Interior and Insular Affairs.

H.R. 4741 (Seiberling)
Establishes competitive oil and gas leasing and modifies leasing procedures for onshore Federal lands. Introduced May 1, 1986; referred to Committee on Interior and Insular Affairs. Subcommittee hearing held July 15, 1986.

H.R. 4826 (Udall, Rahall)
Onshore Competitive Oil and Gas Leasing Amendments of 1986. Amends the Act of Feb. 25, 1920, to provide for competitive leasing of oil and gas for onshore Federal lands, and for other purposes. Introduced May 14, 1986; referred to Committee on Interior and Insular Affairs. Subcommittee hearing held July 15, 1986.

S. 373 (Bumpers)
Amends the Mineral Leasing Act of 1920 to authorize competitive oil and gas leasing and establish fairer leasing procedures for onshore Federal lands. Introduced Jan. 31, 1985; referred to Committee on Energy and Natural Resources.

S. 570 (Wallop)
Amends the Mineral Leasing Act of 1920 to improve the administration of the Federal Coal Leasing Program. Introduced Mar. 5, 1985; referred to Committee on Energy and Natural Resources. Subcommittee hearings held Nov. 8, 1985 (S.Hrg. 99-417). Consideration and markup session held Apr. 30, 1986.

S. 1406 (DeConcini)
Makes permanent the formula for determining fees for the grazing of livestock on public rangelands. Introduced July 9, 1985; referred to Committee on Energy and Natural Resources.

S. 2427 (McClure)
Federal Coal Leasing and Utilization Act of 1986. Amends the Mineral Leasing Act of 1920 to improve the administration of the Federal coal leasing program, and for other purposes. Introduced May 8, 1986; referred to Committee on Energy and Natural Resources. Ordered reported with amendments favorably.

S. 2439 (Bumpers)
Federal Onshore Competitive Oil and Gas Leasing Act of 1986. Amends the Act of Feb. 25, 1920, to provide competitive leasing of oil and gas for onshore Federal lands, and for other purposes. Introduced May 13, 1986; referred to Committee on Energy and Natural Resources. Ordered to be reported with an amendment in the nature of a substitute favorably July 30, 1986. Reported with amendment in the nature of a substitute with written report (S.Hrg. 99-412).

NATIONAL FORESTS

H.R. 4303 (Udall et al.)/S. 2289 (McClure)
Federal Lands Administration Act of 1986; identical bills. Exchange specified lands between BLM and Forest Service; amend numerous laws to continue existing management and regulations; extend some laws applicable to only one agency to both; empower Forest Service to administer mineral claims and leases on national forests. H.R. 4303 introduced Mar. 5, 1986, by request; jointly referred to Committees on Agriculture and on Interior and Insular Affairs. S. 2289 introduced Apr. 11, 1986, by request; referred to Committee on Energy and Natural Resources.

NATIONAL PARKS

H.R. 37 (Seiberling)/S. 194 (Moynihan)
Authorize a program to identify, commemorate, and preserve historic landscapes designed by Frederick Law Olmsted and his associates. Introduced Jan. 3, 1985; referred to Committee on Interior and Insular Affairs. Hearings held Mar. 26, 1985; forwarded to full Committee Apr. 3, 1985. Passed House June 3, 1985. S. 194 introduced Jan. 3, 1985; referred to Committee on Energy and Natural Resources.

H.R. 99 (Seiberling)/S. 27 (Moynihan)
Establishes an American Conservation Corps and thereby provides for the conservation, improvement, and rehabilitation of natural and cultural resources on public and Indian lands. H.R. 99 introduced Jan. 3, 1985; referred to Committee on Interior and Insular Affairs and Committee on Education and Labor. Hearings held in both Committees and the Interior Committee reported the bill Mar. 14, 1985 (H.Rept. 99-18, Part 1). Reported from Committee on Education and Labor May 2 (H.Rept. 99-18, Part 2). Passed the House by a vote of 193 to 191 on July 11, 1985. S. 27 introduced Jan. 3, 1985; referred to Committee on Energy and Natural Resources.

S. 2092 (Chafee)
Provides consistent policy for activities on Federal lands which adversely affect resources in units of the National Park System, and to increase fees at certain parks for improvement of Park Services and programs. Introduced Feb. 25, 1986; referred to Committee on Energy and Natural Resources.

S. 2130 (Durenberger)
Preserves, protects, and revitalizes the National Park System; increases entrance fees, and appropriates fees to National Park Service for use in specified ways for 10 years; further appropriation action by Congress unnecessary for 10 years. Introduced Feb. 28, 1986; referred to Committee on Energy and Natural Resources. Subcommittee on Public Lands and Reserved Water held hearing June 12, 1986.

S. 2204 (McClure, by request)
Amends Land and Water Conservation Fund Act to increase park fees and permit fees to be used in operation of National Park System. Introduced Mar. 18, 1986; referred to Committee on Energy and Natural Resources. Subcommittee on Public Lands and Reserved Water held hearings June 12, 1986.

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MLC-083

NATURAL RESOURCES: WATER, OUTER CONTINENTAL SHELF, WILDLIFE, AND FISHERIES

...diverse demands on basic resources...

WATER RESOURCES

Water resources development has been affected in recent years by uncertainty resulting from executive-legislative confrontations over future policy, especially over efforts to require additional (non-Federal) cost-sharing by the local project sponsors. Project planning and construction are largely carried out by three Federal construction agencies: the U.S. Army Corps of Engineers in the Defense Department, the Bureau of Reclamation in the Interior Department, and the Soil Conservation Service (SCS) in the Agriculture Department. These agencies plan and develop multiple-purpose water projects, which include such benefits as flood control, navigation, hydroelectric power, irrigation, municipal and industrial water supply, recreation, water quality, and fish and wildlife enhancement. Another agency, the U.S. Geological Survey, provides much of the Nation's water resources data base. In the past, various other agencies have provided a Federal-level water policy coordination function.

Water Projects Budget Summary. As submitted to Congress, the President's budget proposal for FY87 on water projects spending incorporates the Administration's cost sharing policy by anticipating for the Corps of Engineers an increase of $270 million in new budget authority levels and proposing that Congress enact new user fees and other non-Federal shares of both construction and maintenance expenditures, in order to pay for the higher outlays.

In the House-passed Energy and Water appropriations bill, H.R. 5162, Corps' funding would be increased to $3.2 billion in Federal funds, including $1.2 billion for construction: of which $72 million is earmarked for 30 new project "starts" in FY87 – 19 of which the Administration requested -- plus $240 million for continuing construction on approximately 40 new starts from the FY85 Supplemental. H.R. 5162 does not incorporate the Administration's requested user fees; further the Bureau of Reclamation would be appropriated $864 million, most of which ($592 million) would continue construction already underway.

The 99th Congress earlier included "new starts" (45 approved in total following conference action) in an FY85 supplemental funding bill (P.L. 99-88, H.R. 2577), which has served to "break the logjam" over such funding. This contained contingency provisions regarding cost sharing -- issues also embodied on the omnibus authorization bills. (See issue brief 86012 for further details.)

In the omnibus authorization bills, Congress is confronted with deciding the future direction of national water resources policy with regard to several difficult issues. The seven-year stalemate over several controversial issues that has prevented enactment of omnibus bills to authorize new projects continues in the 99th Congress. Omnibus project authorization bills (the House and Senate versions of H.R. 6) were reported prior to the August recess (H.Rept. 99-251; S.Rept. 99-126) and House passage came on Nov. 13, 1985. In addition, the Administration's proposals have also been introduced (S. 534, H.R. 1557, H.R. 1558/S. 967). Major differences exist, however, among the leading legislative proposals; the Administration now supports the Senate-passed version of H.R. 6.

The most basic policy choice is whether a large number of new project authorizations should be accompanied by cost-sharing innovations that will also serve to reduce the overall Federal responsibility and spending for water resources. The Reagan Administration in mid-1983 proposed increased local cost-sharing and user fee principles in order to turn more Federal functions over to other levels of government, and to reduce the Federal budget deficit. However, on Jan. 24, 1984, the Administration indicated that its higher, fixed percentages proposed for local cost sharing on various types of projects would no longer be insisted upon, but greater cost sharing would remain as a goal and would be "negotiated" by each agency. In June 1985, the Administration and Senate Republican leadership agreed to a compromise on cost sharing and user fees for Corps-of Engineers projects, and subsequently the House and Senate Public Works Committees incorporated some of those and other cost sharing features into their respective versions of H.R. 6. (See also archived IB85041 – Water Resources Budget; and IB85044 – Water Project Development Cost Sharing Issues.)

OUTER CONTINENTAL SHELF ISSUES

The Reagan Administration has proposed to increase the level of Federal offshore oil leasing to developers in an effort to increase U.S. domestic energy production, as well as to raise additional revenues to help offset the national debt. The Interior Department developed a 5-year accelerated leasing program to accomplish this task. The rationale behind the program was to open "frontier" areas of "high resource potential." The 5-year accelerated lease program called for 41 lease sales from August 1982 through June 1987.

The development of the next 5-year leasing program -- which will include lease sales from 1986 through 1991 -- is currently underway, and contains modifications to the initial Reagan OCS leasing program. A draft of the proposed 5-year program was released on Mar. 21, 1985. Secretary Hodel has said it "proposes to adjust the pace of offshore leasing in light of the downward trend in oil prices over the last few years and the possibility of slower price increases in the future." But the proposal also contains a provision which would accelerate sales in areas of higher value and industry interest, "should economic conditions or new geologic data warrant."

While the draft of the proposed new 5-year program still uses the "areawide" approach of the current program, under the proposed program it is called the "modified areawide" approach. Through the "modified areawide" approach, tracts of low interest to industry, or tracts where there exists high resource-use conflict, can be excluded from the sale planning process at the earliest possible opportunity. Thus, an early "focusing" would occur through the "modified areawide" approach.

The Minerals Management Service (MMS) is responsible for leasing and supervising the development of oil and gas resources in the OCS. MMS also has responsibility for collecting and accounting for royalties and other mineral revenues from all Federal and Indian leases. The FY86 budget for all these activities was $167.0 million, but after adjustment for the requirements of the Gramm-Rudman-Hollings budget reduction legislation, was $159.8 million; $95.3 million of this adjusted amount was for the OCS leasing program. Another $43.0 million was for the royalty management program, which covers all Federal (onshore as well as offshore) and Indian leases. The final $21.5 million was for general administration. The proposed FY87 budget for MMS is $160.1 million ($6.9 million less than the enacted FY85 budget); $93.5 million of this amount would be for the OCS leasing program, $42.5 million for the royalty management program, and $24.0 million for general administration.

Receipts from the OCS leasing and development program historically have been the second largest revenue source for the Federal Government. Revenues for the years 1983, 1984, and 1985 were $9.2 billion, $8.0 billion, and $5.3 billion, respectively.

One issue of concern is whether the accelerated leasing program provides adequate environmental safeguards. In particular, States have been concerned whether they have the legal tools necessary to require accommodation of their concerns in lease sales. A January 1984 U.S. Supreme Court decision interpreted section 307(c)(1) of the Coastal Zone Management Act as not requiring Federal lease sale "consistency" with an affected State's coastal zone management program.

For five fiscal years from FY82 through FY85, Congress enacted, through provisions in the Interior Department appropriations legislation, OCS leasing and development moratoria for areas off New England, California, and the Gulf coast of Florida (FY84 only). For FY86, the Interior Department appropriations legislation (P.L. 99-190) provided for a moratorium off New England but not off California. The debate over the California OCS moratorium led to the development of a negotiation process which attempted to reconcile the conflicting positions of industry, State, and environmental interests. The FY87 Interior Department appropriations legislation (H.R. 5234), as agreed to by the full committee in July 1986, again proposes a moratorium off New England, but not off California. Two upcoming California OCS lease sales (sales 91 and 95) would be postponed, as part of the agreement, until 1989, but the preleasing activities for these sales would be permitted.

Another concern of many of the coastal States is whether the Federal Government will continue to fund programs which protect the coastal environment and whether Congress will pass OCS revenue sharing legislation. Regarding revenue sharing, the reconciliation enactment (P.L. 99-272) contained a provision which provided States 27% of "8(g)" shared revenues, but did not contain a provision for general OCS revenue sharing. Other concerns are whether the United States should increase OCS oil and gas production at a time when domestic energy demand is slackening and whether the program would produce a fair market return for the Federal Government.

For additional details on OCS leasing issues, see IB85026 – Overview of the Outer Continental Shelf Leasing Plan, IB85027 – Outer Continental Shelf Revenue Sharing, and IB85201 – Outer Continental Shelf Leasing Moratoria.

WILDLIFE AND MARINE MAMMALS

Responsibility for managing wildlife resources rests primarily with the States, except where pre-empted by the Federal Government. The principal Federal agency with responsibility for wildlife resources is the Fish and Wildlife Service in the Department of the Interior, although such major Federal land managers as the Bureau of Land Management, the National Park Service, and the U.S. Forest Service also have professional wildlife programs of research and management.

FY87 Budget. The Administration has requested cuts in most programs for fish and wildlife. In the Fish and Wildlife Service, new Budget Authority for Resource Management would decrease from $299 million in FY86 to $285 million. (Note that all references to FY86 numbers are pre-sequestration under P.L. 99-177.) For Construction and Anadromous Fish new Budget Authority would drop from $21.2 million to $3.1 million. Funding for the Western Hemisphere Convention would remain constant at $0.15 million. Land Acquisition would fall from $40.4 million to $1.5 million. The House rejected all of these proposals, at least in part, in passing the Interior Appropriations bill (H.R. 5234, H.Rept. 99-714). The House provided $306 million in new BA for Resource Management, $21.1 million Construction and Anadromous Fish, $0.5 million for the Western Hemisphere Convention, and $33.2 million for Land Acquisition (including acquisition management). Federal Aid in Wildlife Restoration (Pittman-Robertson) would drop from $121 million to $95 million. The drop in funding is due in part to a one-time adjustment by the Internal Revenue Service and some late returns filed by industry. Together, these resulted in abnormally high revenues in FY86.

The Migratory Bird Conservation Account is proposed for a decrease from $29.3 million to $14.4 million through the elimination of an advance appropriation through the Wetlands Loan Act (16 U.S.C. 715k-3-5), thus reducing the Account to those funds collected through the sale of duck stamps. However, the Administration supports the provisions of S. 740 and H.R. 1203 that would gradually increase the price of duck stamps from $7.50 to $15.00. If passed, the law's first-year increase to $10.00 would result in an additional $2.1 million in receipts for a total of $16.5

million. H.R. 5234, as passed by the House, rejected the elimination of the advance appropriation, but did cut the amount to $3 million.

In the Bureau of Land Management, the Administration proposes to decrease funding for Wildlife Management from $16.05 million for FY86 to $13.8 million in FY87. It also proposes to decrease funding for wild horse and burro management from $16.96 million to $15.2 million. The House, in H.R. 5234, accepted a small part of the cut in Wildlife Management, by dropping the account to $15.96 million, and dropped Wild Horse and Burro Management to $12.78 million.

For the Forest Service, the Administration proposes to decrease funding for Wildlife, Range, and Fish Habitat Research from $9.5 million to $9.3 million; for Fish and Wildlife Support from $23.7 million to $23.4 million; and for Habitat Improvement from $15.0 million to $10.4 million. The Administration proposes to decrease Direct Road Construction from $188.2 million to $178.5 million, but to increase Timber Purchaser Credits from $107.9 million to $154.3 million. Some argue that the net effect of the change would harm wildlife and fisheries populations. H.R. 5234, as passed by the House, raised Wildlife, Range, and Fish Habitat Research above the FY86 level to $11.89 million, for Fish and Wildlife Support to $24.36 million. Habitat improvement was set at $14.76 million, and Direct Road Construction was dropped to $148.1 million, while no Timber Purchaser Credits were appropriated because of a continuing unobligated balance.

Other major wildlife legislation in the 99th Congress includes making a Federal offense of the obstruction of any person in a lawful hunt or hunting season (H.R. 883); prohibiting use of steel-jaw leghold traps (H.R. 1809); improving wetland management (H.R. 572, H.R. 1203, S. 740); reauthorizing the Sikes Act (H.R. 1202); amending the Fish and Wildlife Coordination Act (H.R. 2704); reauthorizing the Fish and Wildlife Conservation Act (H.R. 1406); controlling trapping in the National Park System and on other public lands (H.R. 3804); and other issues.

The reauthorization of the Endangered Species Act has been a major item among wildlife issues in the 99th Congress. Controversies have included the pace of listing of endangered and threatened species; continued hunting of grizzly bears; conflicts over water allocation in critical habitats; a continuation for the exemption allowing sale of captive-bred peregrine falcons; protection of plants found on private land; taking of threatened and endangered species by native Americans for religious, ceremonial, or treaty purposes; and the creation of experimental populations of endangered species outside the current range.

H.R. 1027, which would reauthorize the Act, passed the House on July 29, 1985. It mandated certain interim protections for candidate species awaiting listing, and a compromise plan for creation of a second population of California sea otters. It did not change current law regarding water rights, native Americans, peregrine falcons, or protection of plants. On Dec. 4, 1985, the Senate Committee on Environment and Public Works reported S. 725, its own 3-year reauthorization, without changes in existing law. For further information regarding endangered species, see IB85003 -- Endangered Species Act: Reauthorization.

Marine Mammals. Protection and management of marine mammals is shared by the Fish and Wildlife Service (Department of the Interior) and the National Marine Fisheries Service (Department of Commerce). In addition, the independent Marine Mammal Commission (MMC) assesses all Federal actions affecting marine mammals and coordinates research on these animals.

Federal treatment of marine mammals is governed primarily by the Marine Mammal Protection Act (MMPA) of 1972 (P.L. 92-522, as amended), which provides significant protection for all marine mammal species. Additional international management measures are encouraged by U.S. participation in treaties and agreements for whales, Pribilof Island fur seals, Antarctic seals, and endangered species.

For FY87 marine mammal programs within the Fish and Wildlife Service and Department of State (International Commissions), the Administration recommends minor reductions, while those within the National Marine Fisheries Service (NMFS) are recommended for larger cuts. Funding for NMFS programs related to protected species (mostly marine mammals) is proposed for reduction from about $9.6 million (FY86) to about $7.2 million (FY87). However, the House Committee on Appropriations reported, and the House passed, H.R. 5161, which would restore most of this funding but impose an across-the-board 5% decrease in all program accounts. For the Marine Mammal Commission, a cut in their contract research budget drops recommended funding from $900,000 (FY86) to $848,000 (FY87). The House agreed to $817,000 for the MMC, which reflects a 5% reductions for all programs.

Legislation introduced in the 99th Congress focuses on termination of the Pribilof fur seal treaty (H.R. 427); implementation of the International Whaling Commission's moratorium on commercial whaling (H.Con.Res. 23, H.Con.Res. 54, H.Con.Res. 258); negotiation of a new treaty to protect Northern Hemisphere seals (H.Con.Res. 44); procedures for translocation of endangered California sea otters (H.R. 1027); negotiation of a humpback whale sanctuary in the Caribbean (H.J.Res. 67); and other issues.

For further detailed information on these and other issues concerning marine mammals, see IB85002 -- Marine Mammal Issues: 99th Congress Overview.

FISHERIES

Aquaculture. Aquaculture (fish culture) activities are conducted primarily within three departments of the Federal Government -- the Department of Agriculture, the Department of Commerce (National Marine Fisheries Service and National Sea Grant Program), and the Department of the Interior (Fish and Wildlife Service). In addition, at least nine other agencies have an interest in this issue.

Administration policy in aquaculture is governed primarily by the National Aquaculture Act of 1980 (P.L. 96-362). The Department of Agriculture has sought to increase its aquaculture activities in response to this act primarily through sections of the Agriculture and Food Act of 1981 (P.L. 97-98) that authorize the establishment of four aquaculture research, development, and demonstration centers; create an aquaculture research and extension program; and authorize a $7.5 million Federal-State research program to improve domestic aquaculture.

In the National Marine Fisheries Service (NMFS) FY87 budget, aquaculture research activities is proposed for elimination, saving about $3.1 million. In addition, NMFS proposes transfer of Columbia River hatchery funding responsibilities to the Bonneville Power Administration. The House rejected both these proposals in passing NMFS appropriations in H.R. 5161. For Fish and Wildlife Service, no hatchery construction is proposed for FY87. Hatchery operation and maintenance is proposed at $23.9 million, a decrease of 9.4% from FY86. However, the House included funds for construction at Coleman National Fish Hatchery (NFH) ($2.2 million) and Nisqually NFH ($4.6 million) as well as increasing hatchery operations and maintenance to $25.4 million in passing H.R. 5234. The Lower Snake River Compensation Plan is proposed for $6.4 million, a 13.9% increase from FY86 for expanded operation of nine mitigation facilities; with an additional $14 million to be provided by the Army Corps of Engineers.

Legislation introduced in the 99th Congress focuses on provision of emergency loans for aquaculture operations (H.R. 543); provision for loans for aquaculture land purchases (H.R. 1463, H.R. 2609, S. 1598); establishment of a National Fish Hatchery System (H.R. 3167); and other issues. Congress enacted P.L. 99-198 containing a reauthorization through FY88 of the National Aquaculture Act.

For further detailed information on these and other issues concerning aquaculture, see archived I83004 -- Aquaculture: Status of Technology and Future Prospects.

Sport fisheries. Recreational fishing in most freshwater areas and in inshore coastal marine waters under State jurisdiction is managed by the individual States. In freshwater, the Fish and Wildlife Service provides Federal assistance and coordination. Other Federal landholding agencies, such as the Bureau of Land Management and the Forest Service, manage fisheries resources on lands under their jurisdictions. In the marine environment, the National Marine Fisheries Service is responsible for sport fishing outside State coastal waters and assists with interstate coordination of fisheries concerns for inshore coastal waters.

Major administrative policy concerning recreational fisheries is governed by laws of the individual States. The Federal Aid in Sport Fish Restoration Program (otherwise known as the Wallop-Breaux or Dingell-Johnson Program) is the major source of Federal funding for State programs in recreational fisheries.

Within Resource Management for the Fish and Wildlife Service, Fishery Resources are proposed to receive $48 million for FY87, a decrease of 5% from FY86. However, the House agreed to increases totalling $49.75 million in passing H.R. 5234. Under the amended Federal Aid in Sport Fish Restoration Program (Dingell-Johnson or Wallop-Breaux Funds), $159.5 million is proposed for allocation to States in FY87. In addition, the Administration proposes a $918,000 reduction in NMFS's marine recreational fisheries program. The House agreed to this proposed reduction in passing H.R. 5161.

Legislation introduced in the 99th Congress focuses on reauthorization of the Anadromous Fish Conservation Act (H.R. 1025, S. 991); protection of steelhead trout as a game fish (H.R. 2136, S. 954); reauthorization of the Atlantic Striped Bass Conservation Act (H.R. 3358, S. 1813); and other issues.

For further detailed information on these and other issues concerning sport fishing, see archived IB83020 -- Sport Hunting and Fishing: Major Legislation.

Commercial fisheries. Commercial fisheries in U.S. marine waters are under the authority of the National Marine Fisheries Service. However, commercial fisheries on the Great Lakes are managed by the Fish and Wildlife Service. Many other agencies are involved in import-export trade and domestic support services to the commercial fishing industry.

Administrative policy concerning marine commercial fisheries is governed primarily by the Magnuson Fishery Conservation and Management Act of 1976 (P.L. 94-265, as amended) which established Federal control of all fisheries resources within 200 miles of our coasts. Management is coordinated through a system of Regional Fishery Management Councils. Other important measures provide Federal encouragement and funding for industrial development and wise habitat management as well as guide U.S. implementation of international agreements relating to highly migratory tuna and anadromous salmon.

Major program reductions are proposed for the National Marine Fisheries Service (NMFS) in the Administration's FY87 budget. Funding for FY87 is proposed at $96.7 million, a reduction of 40.4% from FY86. Programs slated for major cuts include information collection and analysis, regulatory and management operations, regional fishery management councils, and fishery development and research programs. Programs in salmon vessel buy-back and fisheries grants to States would be terminated. However, the House, in passing H.R. 5161, agreed to restore substantial funding for most programs.

Legislation introduced in the 99th Congress focuses on fishing vessel safety and liability (H.R. 277, H.R. 3156, H.R. 4407, H.R. 4415, H.R. 4465, H.R. 5013, S. 2546); reauthorization and amendment of the Magnuson Fishery Conservation and Management Act (H.R. 1533, H.R. 1876, H.R. 2003, S. 747, S. 958, S. 1245, S. 1386); promotion of seafood marketing (H.R. 2935 and S. 2138); creation of a mandatory inspection program for fish and shellfish (H.R. 1989); management of interjurisdictional fisheries resources (H.R. 1028); and other issues. In the 99th Congress, the Senate agreed to ratification of the Treaty between the United States and Canada concerning Pacific Salmon on Mar. 7, 1985; legislation implementing this Treaty was enacted (P.L. 99-5). Included in P.L. 99-272 were increased permit fees for certain foreign fishing in U.S. waters and permanent exclusion for services on certain fishing boats from coverage under unemployment compensation tax.

For further detailed information on these and other issues concerning commercial fisheries, see IB85005 -- Commercial Fisheries: Current Legislation and Budgets; IB85196 -- Commercial Fisheries: National and Regional Issues and Opportunities; archived IB84092 -- Tuna: Fishery in Turmoil; and IB86028 -- Magnuson Fishery Conservation and Management Act: Ten-year Perspective.

LEGISLATION

WATER RESOURCES

H.R. 6 (Howard)

Contains cost sharing provisions for water projects, as well as authorizations for new water projects. Introduced Jan. 3, 1985; referred to Committee on Public Works and Transportation. Reported Aug. 1, 1985 (H.Rept. 99-251, Parts 1-4). Passed House, amended, Nov. 13, 1985. Passed Senate, amended, with provisions of S. 1567, on Mar. 26, 1986.

H.R. 1557 (Howard, by request)/S. 534 (Stafford, by request)

Authorizes the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. (Related Administration proposals in H.R. 1558/S. 967.) H.R. 1557 introduced Mar. 19, 1985; referred to Committee on Public Works and Transportation. S. 534 introduced Feb. 27, 1985; referred to Committee on Environment and Public Works. Subcommittee hearings held May 10, 1985.

OUTER CONTINENTAL SHELF ISSUES

P.L. 99-272, H.R. 3128

Makes changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process. Introduced July 31, 1985; received joint referral. Reported to House from Committee on Ways and Means (H.Rept. 99-241, Part 1) July 31, 1985. Reported to House from Committee on Education and Labor (H.Rept. 99-241, Part II), and from Committee on the Judiciary (H.Rept. 99-241, Part III) on Sept. 11, 1985. Considered in and passed House Oct. 31, 1985. Referred to Senate Committee on Finance Nov. 11, 1985 and reported from Committee (without written report) Nov. 14, 1985. Considered in and passed Senate, in lieu of S. 1730, Nov. 14, 1985. Text of H.R. 3500, as passed House, inserted in H.R. 3128 Dec. 5, 1985. Conference report filed in House Dec. 19, 1985 (H.Rept. 99-453). Signed into law Apr. 7, 1986.

H.R. 5 (Jones)

Establishes an Ocean and Coastal Resources Management and Development Fund from which coastal States would receive block grants. Introduced Jan. 3, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 624 (Young, D.)

Establishes in the Treasury the Coastal Resource and Economic Development Fund. Provides that for FY86 and for each fiscal year thereafter the Secretary of the Treasury shall pay specified block grant amounts to each coastal State and to each unit of local coastal government for specified environmental and economic purposes. Introduced Jan. 22, 1985; referred to more than one committee.

H.R. 641 (Breaux)

Requires an affected coastal State and the Interior Department to reach an agreement for the distribution of "8(g)" revenues prior to a lease sale. If no such agreement can be reached, then the Interior Department would set aside 50% of these monies for distribution to the affected State. Introduced Jan. 24, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1234 (Tauzin)

Reauthorizes Coastal Zone Management Act through 1993. Introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1445 (Studds)

Amends and reauthorizes the Coastal Zone Management Act. Introduced Mar. 6, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 1440 (Panetta)

Imposes a moratorium on oil and gas leasing and development in areas off California and Massachusetts until the year 2000. Introduced Mar. 6, 1985; referred to Committee on Interior and Insular Affairs.

H.R. 5234 (Yates)

Interior Department appropriations bill for FY87. Introduced July 1986, when Committee agreed to continue OCS moratorium off New England, but not continue the OCS moratorium off California. Passed House amended July 31, 1986. Reported from Senate Committee on Appropriations Aug. 13, 1986 (S.Rept. 99-397).

S. 55 (Stevens)

Establishes an Ocean and Coastal Resources Management and Development Fund from which coastal States would receive block grants. Introduced Jan. 3, 1985; referred to Committee on Commerce, Science, and Transportation.

WILDLIFE AND MARINE MAMMALS

P.L. 99-180, H.R. 2965

FY86 appropriations for marine mammal programs in the National Marine Fisheries Service, the Marine Mammal Commission, and international commissions. Signed into law Dec. 13, 1985.

P.L. 99-375, H.R. 1406

Extends the authorization of the Fish and Wildlife Conservation Act of 1980 for State nongame conservation planning. Signed into law Aug. 7, 1986.

H.R. 427 (Roe)

Expresses sense of Congress that fur seal treaty be terminated, that negotiations be sought on a worldwide ban on seal harvests, that the Pribilof Islands be designated a wildlife refuge and marine sanctuary, and that alternative livelihood options for Pribilof residents be studied and recommended to Congress. Introduced Jan. 3, 1985; jointly referred to Committee on Foreign Affairs, Committee on Interior and Insular Affairs, and Committee on Merchant Marine and Fisheries.

H.R. 572 (Chappell)

Directs the Secretary of the Interior to classify and inventory wetland resources, to measure wetlands degradation, and to evaluate the contribution of natural wetlands to conservation and quality of the human environment. Introduced Jan. 22, 1985; referred to Committee on Merchant Marine and Fisheries.

H.R. 883 (Marlenee)

Amends the Federal criminal code to make it a Federal offense to obstruct or impede the participation of any person in a lawful hunt or hunting season. Introduced Jan. 31, 1985; referred to Committee on the Judiciary.

H.R. 1027 (Breaux)

Extends the authorization of the Endangered Species Act through FY88. Introduced Feb. 7, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 14, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported with amendments (including specific direction on Southern sea otter translocation) May 15, 1985 (H.Rept. 99-124). Passed House amended July 29, 1985. Referred to Senate Committee on Environment and Public Works.

H.R. 1202 (Breaux)

Extends the authorization of appropriations to carry out conservation programs on military reservations and public lands through FY88 (Sikes Act). Introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 5, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported with amendment May 15, 1985 (H.Rept. 99-129, Part I), and sequentially referred to Committee on Armed Services. Reported June 25, 1985 (H.Rept. 99-129, Part II). Passed House amended July 29, 1985.

H.R. 1203 (Breaux)/S. 740 (Chafee)

Promotes the conservation of migratory waterfowl and offsets or prevents the loss of wetlands through a program of land acquisition. H.R. 1203 introduced Feb. 21, 1985; referred to Committee on Merchant Marine and Fisheries. Hearing held Mar. 5, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported May 13, 1985 (H.Rept. 99-86, Part I). Referred sequentially to Committee on Interior and Insular Affairs. Discharged on May 14, 1985. S. 740 introduced Mar. 26, 1985; referred to Committee on Environment and Public Works. Reported June 25, 1985 (no written report).

H.R. 1809 (Lantos)

Prohibits the use of steel-jaw leghold traps. Introduced Mar. 28, 1985; referred to Committee on Energy and Commerce.

H.R. 2704 (Breaux)

Amends the Fish and Wildlife Coordination Act to revise the interagency coordination regarding the protection of fish and wildlife resources. Referred to Committee on Merchant Marine and Fisheries. Hearings held on June 20, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported Nov. 21, 1985 (H.Rept. 99-392). Passed House amended Dec. 2, 1985. Referred to Senate Committee on Environment and Public Works.

H.R. 2957 (Yatron)

Amends the Foreign Assistance Act of 1961 to protect tropical forests in developing countries. Referred to Committee on Foreign Affairs. Reported Feb. 26, 1986 (H.Rept. 99-476). Passed House (amended) June 3, 1986. Referred to Senate Committee on Foreign Relations.

H.R. 2958 (Yatron)

Amends the Foreign Assistance Act of 1961 to protect biological diversity in developing countries. Introduced July 10, 1985; referred to Committee on Foreign Affairs. Reported Feb. 26, 1986 (H.Rept. 99-478). Passed House (amended) June 3, 1986. Referred to Senate Committee on Foreign Relations.

S. 725 (Chafee)
Extends the authorization of the Endangered Species Act through FY90. Introduced Mar. 20, 1985; referred to Committee on Environment and Public Works. Subcommittee on Environmental Pollution held hearings Apr. 16 and 18, 1985. Ordered reported Dec. 4, 1985. Reported Mar. 14, 1986 (S.Rept. 99-261).

S. 1747 (Roth)
Amends the Foreign Assistance Act of 1961 to protect tropical forests in developing countries. Introduced Oct. 8, 1985; referred to Committee on Foreign Relations.

S. 1748 (Roth)
Amends the Foreign Assistance Act of 1961 to authorize appropriations to help developing countries to protect plants and animals and their habitats. Introduced Oct. 8, 1985; referred to Committee on Foreign Relations.

FISHERIES

P.L. 99-5, H.R. 1093
Implements the Treaty between the Government of the United States of America and the Government of Canada concerning Pacific salmon. H.R. 1093 introduced Feb. 7, 1985. Signed into law Mar. 15, 1985.

P.L. 99-180, H.R. 2965
FY86 appropriations for fisheries programs of the National Marine Fisheries Service. Signed into law Dec. 13, 1985.

P.L. 99-190, H.J.Res. 465
FY86 appropriations for fisheries activities of the Fish and Wildlife Service. Signed into law Dec 19, 1985.

P.L. 99-198, H.R. 2100
Title XVII extends the authorization of the National Aquaculture Act through FY88. Signed into law Dec. 23, 1985.

P.L. 99-271, S.J.Res. 262
Authorizes and requests proclamation designating June 2 through June 8, 1986, as "National Fishing Week." Signed into law Apr. 1, 1986.

P.L. 99-272, H.R. 3128
Consolidated Omnibus Budget Reconciliation Act of 1985. Sec. 6021 increases permit fees for certain foreign fishing within the U.S. Exclusive Economic Zone. Sec. 13303(c) makes permanent the exclusion for certain service performed on fishing boats from coverage under unemployment compensation tax program. Signed into law Apr. 7, 1986.

H.R. 277 (Biaggi), H.R. 3156 (Jones of North Carolina)
Revises laws pertaining to limitation of liability for personal injury claims. H.R. 277 introduced Jan. 3, 1985; referred to Committee on Merchant Marine and Fisheries. H.R. 3156 introduced Aug. 1, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Merchant Marine held hearings Oct. 17, Nov. 7, 1985, and Apr. 16, 1986, on both bills. Joint hearing held Apr. 17, 1986, on both bills by Subcommittee on Coast Guard, Subcommittee on Merchant Marine, and Subcommittee on Fisheries and Wildlife Conservation and the Environment.

H.R. 543 (Stangeland)
Provides emergency loans to aquaculture operations impacted by national disaster for 3 or more consecutive years. Introduced Jan. 21, 1985; referred to Committee on Agriculture.

H.R. 1025 (Breaux)/S. 991 (Danforth)
Extends the authorization of the Anadromous Fish Conservation Act. In addition, S. 991 authorizes marine recreational fisheries programs of NMFS for FY86. H.R. 1025 introduced Feb. 7, 1985, referred to Committee on Merchant Marine and Fisheries. Hearing held Feb. 21, 1985, by Subcommittee on Fisheries and Wildlife Conservation and the Environment. Reported Mar. 19, 1985 (H.Rept. 99-19) and passed House Mar. 19, 1985. S. 991 introduced Apr. 24, 1985; referred to Committee on Commerce, Science, and Transportation. Reported with amendment May 21, 1985 (S.Rept. 99-67). Passed Senate amended Oct. 2, 1985. Called up and passed House amended Aug. 12, 1986.

H.R. 1028 (Breaux)
Promotes management of priority interjurisdictional fisheries resources. Introduced Feb. 7, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Feb. 21, 1985. Failed of passage in House under suspension of rules Mar. 19, 1985. Passed House amended July 29, 1985. Referred to Senate Committee on Commerce, Science, and Transportation.

H.R. 1463 (Evans of Iowa), H.R. 2609 (Evans of Iowa)/S. 1598 (Grassley)
Amends the Farm Credit Act of 1971 to direct offering of 20-year mortgage loans for aquacultural land purchases. H.R. 1463 introduced Mar. 7, 1985; referred to Committee on Agriculture. H.R. 2609 introduced May 23, 1985; referred to Committee on Agriculture. S. 1598 introduced Aug. 1, 1985; referred to Committee on Agriculture.

H.R. 1533 (Breaux), H.R. 1876 (Bosco), H.R. 2003 (Howard)/S. 747 (Lautenberg), S. 958 (Danforth), S. 991 (Danforth), S. 1245 (Stevens), S. 1386 (Gorton)
Amends and reauthorizes the Magnuson Fishery Conservation and Management Act (H R. 1876 and S. 1386 contain no reauthorization, H.R. 1533 through FY87, H.R. 2003 and S. 747 through FY90). H.R. 1533 introduced Mar. 19, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Mar. 26, 1985. Reported with amendment June 10, 1985 (H.Rept. 99-165). H.R. 1876 introduced Apr. 2, 1985; referred to Committee on Merchant Marine and Fisheries. H.R. 2003 introduced Apr. 4, 1985; referred to Committee on Merchant Marine and Fisheries. S. 747 introduced Mar. 26, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985. S. 958 introduced Apr. 18, 1985; referred to Committee on Commerce, Science, and Transportation. Reported May 22, 1985 (S.Rept. 99-70). S. 991 amended on House floor Aug. 12, 1986, to contain this measure; and passed in amended form. S. 1245 introduced June 5, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985. S. 1386 introduced July 27, 1985; referred to Committee on Commerce, Science, and Transportation. Hearing held July 23, 1985.

H.R. 1989 (Dorgan)

Creates a mandatory inspection program for fish and shellfish. Introduced Apr. 4, 1985; referred jointly to Committee on Agriculture and Committee on Merchant Marine and Fisheries.

H.R. 2136 (Swift)/S. 954 (Gorton)

Provides additional protection of steelhead trout as a game fish; prevents commercial take of steelhead trout by Indian tribes. H.R. 2136 introduced Apr. 18, 1985; referred jointly to Committee on Merchant Marine and Fisheries and Committee on Interior and Insular Affairs. S. 954 introduced Apr. 18, 1985; referred to Committee on Indian Affairs. Hearing held July 11, 1985.

H.R. 2935 (Breaux)/S. 991 (Danforth)

Promotes the consumption of fish products through establishment of seafood marketing councils. Introduced July 9, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing July 17, 1985. Reported Dec. 5, 1985 (H.Rept. 99-420). Passed House amended Dec. 9, 1985. Referred to Senate Committee on Commerce, Science, and Transportation. Hearing held Apr. 17, 1986. S. 991 amended on House floor Aug. 12, 1986, to add this measure as Title II. Measure passed amended Aug. 12, 1986.

H.R. 3167 (Breaux)

Establishes a National Fish Hatchery System within the Fish and Wildlife Service. Introduced Aug. 1, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Oct. 2, 1985.

H.R. 3358 (Studds)/S. 1813 (Chafee)

Extends authorization of the Atlantic Striped Bass Conservation Act and the Emergency Striped Bass study of the Anadromous Fish Conservation Act through FY88. H.R. 3358 introduced Sept. 18, 1985; referred to Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearing Feb. 27, 1986. Reported with amendment Apr. 16, 1986 (H.Rept. 99-532). Passed House, amended, Apr. 29, 1986. Passed Senate amended June 26, 1986, in lieu of S. 1813. S. 1813 introduced Oct. 30, 1985; referred to Committee on Environment and Public Works. Reported with amendment Apr. 24, 1986 (S.Rept. 99-287). Referred to Committee on Commerce, Science, and Transportation. Discharged from Committee on Commerce, Science, and Transportation May 13, 1986. Postponed and H.R. 3358 amended and passed in lieu on June 26, 1986.

H.R. 4407 (Jones of North Carolina), H.R. 5013 (Jones of North Carolina)/S. 2546 (Chafee)

Limits the liability in the operation of fishing vessels that comply with improved safety requirements. Introduced Mar. 13, 1986; referred to Committee on Merchant Marine and Fisheries. Joint hearing held Apr. 17, 1986, by Subcommittee on Coast Guard, Subcommittee on Merchant Marine, and Subcommittee on Fisheries and Wildlife Conservation and the Environment. H.R. 5013 introduced June 11, 1986; referred to Committee on Merchant Marine and Fisheries. Reported with amendment Aug. 7, 1986 (H.Rept. 99-767). Failed passage Aug. 13, 1986. S. 2546 introduced June 11, 1986; referred to Committee on Commerce, Science, and Transportation.

H.R. 4415 (Studds)

Imposes limitations on damage awards in actions for personal injury incurred by seamen on fishing vessels and requires additional safety regulations for fishing vessels. Introduced Mar. 13, 1986; referred to Committee on Merchant Marine and Fisheries. Joint hearing held Apr. 17, 1986, by Subcommittee on Coast Guard, Subcommittee on Merchant Marine, and Subcommittee on Fisheries and Wildlife Conservation and the Environment.

H.R. 4465 (Lowry)

Requires inspection by the Coast Guard of fishing vessels and requires certain safety equipment to be aboard such vessels. Introduced Mar. 20, 1986; referred to Committee on Merchant Marine and Fisheries. Joint hearing held Apr. 17, 1986, by Subcommittee on Coast Guard, Subcommittee on Merchant Marine, and Subcommittee on Fisheries and Wildlife Conservation and the Environment.

H.R. 5161 (Smith of Iowa)

FY87 appropriations for fisheries and marine mammal programs in the NMFS, Department of State, and Marine Mammal Commission. Introduced and reported by Committee on Appropriations July 15, 1986 (H.Rept. 99-669). Passed House amended July 17, 1986.

S. 2138 (Stevens)

Establishes a National Marketing Council for the fishing industry to coordinate research, education, and promotion related to fisheries products. Introduced Mar. 5, 1986; referred to Committee on Commerce, Science, and Transportation. Hearing held Apr. 17, 1986.

Malcolm Simmons, Eugene Buck, Steve Hughes, Lynne Corn

SCIENCE AND TECHNOLOGY

MLC-084

COMPUTER CRIME AND SECURITY

...subject to deliberate acts of fraud...

Computer crime and security is a topic that has gained increasing attention in Congress since legislation was first introduced in 1977. The use of computer systems has grown exponentially in the Federal Government, financial institutions, schools, homes, medicine, and elsewhere. Computers are subject to deliberate acts of fraud by insiders or those familiar with the information system; or by hackers, who enter a system to manipulate, destroy, or modify computerized data. The incidence of computer crime is believed to be extensive, yet no one is sure exactly how much damage is being done in unsecured systems. Some estimates place this damage at up to one billion dollars per year.

On Oct. 10, 1984, Congress passed the first Federal legislative measure dealing with computer crime and security, the Counterfeit Access Device and Computer Fraud Act of 1984 (Chapter XXI of P.L. 98-473). This law has three components: it outlaws (1) gaining access to a Federal computer system without authorization to modify, destroy, or disclose information; (2) gaining access to or using computers without authorization to obtain financial or credit information protected by Federal financial privacy laws; and (3) gaining access to or using computers without authorization to obtain classified military intelligence information.

Policymakers in the 99th Congress are considering several unresolved issues. The precise definitions of "unauthorized access" and "uses" of computers, as stated in the law, are unclear, as are the rights of individuals and Federal Government "whistle blowers" who might be affected by the statute. The role of States in preventing computer crimes in the private sector, and how much Federal jurisdiction there should be over the States, also has been debated by Congress. How computer crime laws can be written to reflect the ever-changing technology and growing use of computers is yet another policy issue being considered. Finally, oversight of Federal computer systems both in the defense and civilian sector in the form of reviews, audits, and management and training of personnel are being examined during the 99th Congress.

LEGISLATION

H.R. 2889 (Glickman)

Computer Security Training and Research Act of 1985. Establishes within the National Bureau of Standards a computer security research program to provide for the training of Federal employees who are involved in the management, operation, and use of automated information processing systems. Introduced June 27, 1985; referred jointly to Committees on Government Operations and on Science and Technology. Government Operations Committee requested executive comment from OMB, Department of Commerce, GAO, GSA, NASA, DOD, and CIA; referred to Subcommittee on Legislation and National Security July 5, 1985. Hearings held Sept. 18, 1985. Marked up and forwarded to full committee Oct. 28. Science and Technology Committee referred bill to Subcommittees on Science, Research, and Technology and on Transportation, Aviation, and Materials July 9. The former subcommittee held hearings Nov. 19, and forwarded the bill, amended, to full committee Nov. 21. The latter subcommittee held hearings and forwarded the bill, amended, to full committee Nov. 14, 1985. On Nov. 21, 1985, reported by both subcommittees, as amended. On June 4, 1986, committee marked bill and forwarded it to House for consideration. Committee reports issued by Science and Technology Committee (H.Rept. 99-753, Part I) and by Government Operations Committee (H.Rept. 99-753, Part II) Aug. 6, 1986. Called up by House under suspension of rules Aug. 12. Failed to receive two-thirds vote to suspend; laid on the table for further consideration.

H.R. 3378 (Kastenmeier)

Electronic Communication Privacy Act of 1985. Updates the Omnibus Crime Control and Safe Streets Act of 1968 (Federal Wiretap Law). Extends the prohibition of illegal wiretapping of certain "aural" communications, such as telephone conversations, to eavesdropping on new forms of digital electronic devices, such as electronic mail, cellular and cordless telephones, paging devices, and other new data transfer devices. Excludes certain devices from this wiretapping provision, such as walkie-talkies, ham radios, and citizen band radios. This is to ensure division between what are considered obvious public vs. private forms of communication. Introduced Sept. 19, 1985; referred to Committee on the Judiciary. Referred to Subcommittee on Courts, Civil Liberties, and the Administration of Justice Sept. 24, 1985. Subcommittee hearings held Sept. 26 and Oct. 24, 1985, and Jan. 30, 1986, and Mar. 5, 1986. Executive comment requested from the Department of Justice, Federal Communications Commission, and Administrative Office of the United States Courts Sept. 26, 1985, and the Department of Commerce Dec. 10, 1985. On Apr. 10, 1986, the subcommittee held markup of the bill. On June 5, 1986, a new bill (H.R. 4952) was forwarded to the full committee for further consideration. Committee held markup of new bill, and reported to House for consideration June 10, 1986. Judiciary Committee issued report (H.Rept. 99-647) June 19. Considered and passed House by voice vote June 23. Reported to Senate June 24, 1986. (Identical bill: S. 1667).

H.R. 4718 (Hughes)

Computer Fraud and Abuse Act of 1986. Supersedes H.R. 1001 and H.R. 4562 by perfecting language in the previous bills and adding new sections to P.L. 98-473. This bill includes provisions which extend the existing misdemeanor law to cover access to financial records as defined in the bill rather than those in the Right to Financial Privacy Act, and set a higher standard of culpability by substituting "intentionally" in place of "knowingly"; (2) amend the current law dealing with trespass of Government computers by including "intentionally" in place of "knowingly", make the trespass of a Federal Government computer a pure trespass penalty, and lead to administrative sanctions rather than criminal penalty in cases of Federal "whistle-blowers"; (3) establish a new section which includes a 5-year felony provision for unauthorized access (or those who exceed authorized access) to a "Federal interest computer" with an intent to defraud; (4) establish a new section for felony provisions for "malicious damage" to a "Federal interest computer"; (5) create a misdemeanor provision for conduct associated with passwords displayed on "pirate bulletin boards," applicable to passwords from Federal Government computers displayed on pirated bulletin boards or when "trafficking" affects interstate or foreign commerce; (6) eliminate the specific conspiracy section of P.L. 98-473; (7) establish new definitions for terms in the current law; and (8) conform both fine provisions and law enforcement provisions with existing laws. Introduced Apr. 30, 1986; referred to Committee on the Judiciary. Referred to Subcommittee on Crime, in lieu of H.R. 4562, May 1; forwarded to full committee, as amended, May 6. Reported to House, with amendment (H.Rept. 99-612), May 22, 1986. Passed by House (voice vote) June 3, 1986. Referred to Senate Committee on the Judiciary June 4, 1986.

S. 2281 (Trible)

Computer Fraud and Abuse Act of 1986. [Supersedes S. 440; companion bill to H.R. 4718 (see above).] Introduced Apr. 10, 1986; referred to Committee on the Judiciary. Hearings held Apr. 16. Executive comment requested from the Justice Department Apr. 25. Reported to House, with amendments, June 12, 1986.

Glenn McLoughlin
IB85155

MLC-085

SPACE POLICY ISSUES AFTER THE SHUTTLE ACCIDENT

...many payloads waiting to be launched...

Following several failures of standard U.S. launch vehicles and the completion of the investigation into the cause of the Challenger accident, the National Aeronautics and Space Administration (NASA) and Congress have started to deal with the resulting difficult questions. Issues include the use of available launch vehicles, the procurement of additional vehicles, and the development of future launch technology. The shuttle system, which had been the Nation's primary launch vehicle, will be grounded at least until early 1988. As a result, many payloads -- military, scientific, and commercial -- are waiting to be launched.

NASA

Seven months after the accident, President Reagan approved the procurement of a shuttle orbiter to replace the Challenger. Reagan's decision did not, however, specifically support supplemental funding to pay for the orbiter. NASA Administrator Fletcher has stated that he would not support a fourth orbiter if funding for it had to be taken from NASA's existing budget. The fourth orbiter will cost about $2 billion and will take approximately 4 years to build.

Once shuttle flights resume in 1988, the three orbiters will be used at a much lower flight rate than previously scheduled. As a result, there will be a backlog of payloads so that decisions will have to be made as to which payloads have priority. Among NASA's highest priorities are a Tracking and Data Relay Satellite (TDRS) to replace the one which was destroyed in the shuttle accident, the Hubble Space Telescope, and two major planetary missions (Galileo and Ulysses) that had been planned for launch in the summer of 1986. Two of these priority missions are tentatively planned for the first year the shuttle resumes operations.

PRIVATE SECTOR

U.S. commercial and foreign communications satellite companies have the lowest priority for a shuttle launch and have been actively searching for alternatives. Many have signed contracts or have had discussions with foreign countries marketing launch services, including the European Space Agency and China. Recently, the White House decided that the shuttle would gradually stop launching commercial payloads. As a result of this decision, several communications satellite companies have entered serious discussions with private ELV firms.

The Administration and NASA have encouraged new and experimental commercial activities in space, such as on-orbit services and materials processing. These activities are dependent on the use of the shuttle, and may be limited by the lack of access to shuttle flights for many years.

MILITARY SPACE

According to the Department of Defense (DOD), 21 scheduled military payloads will be backlogged in the 2 years the shuttle is grounded. These payloads include: communications, navigation, test program, and reconnaissance satellites. These payloads, from DOD's perspective, are high-priority national security missions. Although the details on these programs are classified, the most serious problem appears to be in the area of photoreconnaissance, which is important for intelligence gathering and arms control monitoring.

The Air Force had already received congressional approval before the shuttle accident for a new expendable launch vehicle (ELV), now called the Titan 4, to attain assured access to space. Originally, the Air Force had ordered 10 Titan 4s, with a launch rate of two per year beginning in 1988. Since the accident, the Air Force has gotten approval for 13 more. In addition, the Air Force plans to develop a new Medium Launch Vehicle (MLV).

SPACE WEAPONS

The debate over U.S. space weapons programs for antisatellite (ASAT) and space-based ballistic missile defense (the Strategic Defense Initiative) missions is continuing in Congress. The two programs are different – one is for attacking satellites, the other for attacking ballistic missiles en route to their targets -- and are treated separately in the DOD budget, although the technology for both systems can be similar.

Antisatellite Weapons

The United States had an operational ASAT system from 1964 to 1975 using ground-based missiles at Johnston Island in the Pacific. In 1977, President Carter approved development of a new ASAT system using air-launched homing interceptors. The current debate in Congress has focussed on this particular ASAT system. This system was tested twice in 1984, once in 1985, and once in 1986. The two 1984 tests were against points in space.

Testing against objects in space was prohibited by congressional language in the FY85 DOD Authorization Act until 15 days after the President certified to Congress that he is endeavoring in good faith to obtain an agreement with the Soviets containing the strictest possible limits on ASATs, that such tests are necessary to avert clear and irrevocable harm to national security, that such tests would not gravely impair the prospects for getting such an agreement, and that the tests would be in conformance with the 1972 ABM treaty. The President submitted such certifications on Aug. 20, 1985, and the first test against an object in space was successfully conducted on Sept. 13, 1985. The test and the prior Presidential certifications were quite controversial.

Subsequently, Congress prohibited obligating or expending funds for ASAT tests against *objects* in space until the President has certified that the Soviet Union conducted such a test after Oct. 3, 1985. DOD interpreted this restriction to allow for tests against *points* in space. Such a test was conducted on Aug. 22, 1986, using a star's energy as the target. DOD is expected to conduct a similar test before the end of FY86. Currently, there is controversy over whether or not the moratorium on tests against objects in space is effective beyond FY86.

In 1983, the Soviet Union announced that it had imposed on itself a unilateral moratorium on ASAT testing as long as other countries did not launch ASATs, and they have apparently abided by that statement (the last Soviet ASAT test was in June 1982). The Soviets have, however, already conducted 20 tests of their ASAT against objects in space, and it is considered operational by DOD (the Soviet ASAT tests began in 1968).

In action on FY87 defense authorizations, the House Armed Services Committee (H.Rept. 99-718 accompanying H.R. 4428) recommended cuts totaling $166.4 million (cutting ASAT RDT&E to $140 million and deleting procurement funds). The committee cited cost growth, schedule delays, and the restructuring of the program, and encouraged the Administration to develop both active and passive alternatives to the MHV system. The Senate Armed Services Committee (S.Rept. 99-331 accompanying S. 2638) recommended all funding as requested. The committee called the ASAT an important element of efforts to enhance the survivability of our space assets, cited the Soviet advantage in this area, and recommended repeal of the testing moratorium imposed last year. In floor action, the Senate, on August 8 by a vote of 53-43, tabled an amendment to S. 2638 proposed by Senator Kerry which would have extended the FY86 testing moratorium indefinitely.

In action on FY87 military construction appropriations (H.R. 5052), the House Committee on Appropriations (H.Rept. 99-648) deleted all ASAT-related construction funds for Langley Air Force Base. The Senate Committee on Appropriations (S.Rept. 99-368) approved all funds.

Strategic Defense Initiative

On Mar. 23, 1983, President Reagan called on the Nation's scientists to investigate the technical feasibility of defensive technologies or systems that could render nuclear weapons "impotent and obsolete." Dubbed "Star Wars" by the media, the program is officially called the Strategic Defense Initiative (SDI) and was established to perform research and technology development on a ballistic missile defense (BMD) system that could involve space-based weapons. The SDI research program was initially estimated to cost $26 billion over 5 years. If a decision were made to proceed with development, testing, and deployment of a BMD system, it would cost additional billions (an actual cost cannot be estimated at this time because neither the system design nor the technologies have been selected).

For FY87, the Pentagon requested $4.8 billion and the Department of Energy (DOE), $603 million for the SDI program, a total increase of roughly $2.3 billion over what was appropriated for FY86. On Aug. 9, 1986, the Senate authorized $3.9 billion for SDI ($3.6 billion for DOD and $334 million for DOE). The House Armed Services Committee recommended funding the SDI program at $3.4 billion for FY87. This level was reduced on the House floor to $3.1 billion ($2.85 billion for DOD and $279 million for DOE).

Although no decision has been made to deploy a BMD system, a concept does exist in which there are seven layers of defensive weapons covering different points in a missile's trajectory -- boost, post-boost, mid-course, and terminal. During the boost phase, the missile and its warheads are combined as one object. In the post-boost phase, the warheads (as many as 10 per missile) separate from the booster and proceed to their destination through the mid-course (coasting) phase and the terminal phase when they fall to their targets. The boost phase is considered the most attractive, since destroying a single booster would negate all its warheads. It is generally accepted that at least some components of a weapons system to destroy Soviet missiles, particularly during the boost phase, would have to be stationed in space.

SDI is controversial for a variety of reasons including cost, technical feasibility, and arms control. While few people oppose a research effort for BMD as a hedge against a Soviet breakout in this area, many are concerned about the level of funding proposed for SDI, not only in terms of the budgetary impact, but also because they are not convinced that the research program will lead to enhanced national security and arms stability. Others think the program should proceed as quickly as possible and support the Administration's requested funding level.

As far as technical feasibility is concerned, there is virtual unanimity that a "perfect" defense cannot be built, and that some nuclear warheads could leak through an SDI-type system. However, it is argued that nuclear weapons can be rendered impotent and obsolete by defenses that severly reduce their military utility. The Pentagon has begun an Air Force Initiative to deal with these other systems.

Critics of the SDI program argue that a defensive system which is anything less than 100% effective in destroying incoming missiles would not be worth its cost, because only a few "leakers" would cause considerable damage. Furthermore, they point out that SDI-type systems are prohibited by the ABM Treaty, and proceeding to development, testing, and deployment would mean that the United States would have to withdraw from or seek to modify that treaty, which could escalate the arms race. On the other hand, the SDI program currently addresses only strategic nuclear missiles, not manned bombers or cruise missiles, so even if all strategic missiles could be negated, there still could be a threat from other nuclear weapons delivery systems.

Another problem related to technical feasibility is whether the system, particularly the space-based elements, would be able to survive attempts to debilitate or destroy it. System survivability is being studied within the SDI program. Yet another area of concern is whether the Soviets could develop countermeasures more easily and cheaply than it would cost to build or enhance an SDI-type system.

Despite the fact that they have an aggressive ballistic missile defense program of their own, the Soviet Union is strongly opposed to SDI and has made opposition a cornerstone of the negotiations in Geneva over offensive and defensive weapons as well as public pronouncements at every opportunity. It is unclear as to whether they will be willing to make concessions on offensive weapons without the United States making concessions on the SDI program.

Beyond the immediate issue of the Geneva talks is concern that SDI will spur a new arms race in space and be destabilizing between the two superpowers, rather than stabilizing as the Administration claims. Administration witnesses have stated repeatedly that they expect the Soviet response to SDI to be a decreasing emphasis on offensive arms and increasing emphasis on building their own defensive system. SDI critics argue that the Soviets, instead, will increase their offensive arsenal in the hope of overwhelming the U.S. defensive system. They also argue that if the goal of SDI is to get the Soviets to decrease the number of offensive missiles, it would be considerably less expensive to negotiate arms reductions. SDI proponents aver that the Soviets would not be willing to negotiate reductions in offensive forces without a compelling reason to do so, and that SDI could be that reason and, in fact, has already motivated them to return to the negotiating table in Geneva.

LEGISLATION

H.R. 4515/P.L. 99-349

Makes supplemental appropriations for FY86, including funding for 13 additional CELVs and authorizes the MLV. Introduced Mar. 25, 1986; referred to House Committee on Appropriations. Reported to House (H.Rept. 99-510) Mar. 25, passed House May 8; referred to Senate Committee on Appropriations. Reported to Senate (S.Rept. 99-301) May 15, passed Senate June 6. House agreed to conference report (H.Rept. 99-649) June 24; Senate agreed June 26. Signed into law July 2, 1986.

H.R. 4103 (Torricelli)

Appropriates supplemental FY86 funds for NASA to construct a replacement orbiter. Introduced Feb. 3, 1986; referred to House Committee on Appropriations.

H.R. 4691 (Fuqua)

Authorizes NASA appropriation for FY87 and reestablishes the National Aeronautics and Space Council. Introduced Apr. 28, 1986; referred to House Committee on Science and Technology.

H.R. 5313 (Boland)

Makes FY87 appropriations for NASA (and other agencies). Reported to House from Committee on Appropriations (H.Rept. 99-731) July 31, 1986.

S. 2714 (Gorton)
Authorizes FY87 appropriations for NASA. Authorizes unspecified funding for fourth orbiter. Introduced Aug. 5, 1986; referred to Committee on Commerce, Science, and Transportation. Favorably reported Aug. 14, 1986.

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IB86121

SOCIAL SERVICES

MLC-086

CHILD NUTRITION ISSUES IN THE 99TH CONGRESS

...reauthorization still pending...

In the first session of the 99th Congress, the House and Senate passed different versions of a child nutrition reauthorization bill (H.R. 7). Among other things, these bills would extend the authorizations of five programs which, since FY85, have had their authority extended through appropriation laws. These programs are the special supplemental food program for women, infants and children (WIC), the summer food service program, the nutrition education and training program, the state administrative expense program, and the commodity distribution program. The other child nutrition programs -- school lunch, school breakfast, child care food, and special milk -- are permanently authorized under current law. Another child nutrition program, the commodity supplemental food program, was extended through FY90 under the Food Security Act of 1985 (Farm bill -- P.L. 99-198). Also during the first session, Congress rejected FY86 Administration Budget proposals to exclude non-poor children from the benefits of child nutrition programs, and freeze program expenditures. FY86 appropriations for child nutrition programs provided for full funding for all child nutrition programs during the fiscal year. During FY86 funding for these programs totalled $5.9 billion.

The Balanced Budget Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings, P.L. 99-177) includes protections for child nutrition programs with respect to the automatic spending reductions that were to go into effect if the Federal budget deficit exceeds certain levels. These automatic cutback provisions, later ruled unconstitutional by the Supreme Court if implemented by the General Accounting Office, exempted all child nutrition programs other than the special milk program from cutbacks. The special milk program was subject to a freeze.

During the second session of the 99th Congress, the Administration proposed FY87 Budget actions that again would have eliminated Federal support for child nutrition programs serving non-poor children, and limited expenditure growth. Legislation to implement the Administration proposals was not introduced in either House and Congress did not support such cutbacks in its Budget resolution, which allowed room for some increase in child nutrition program funding. In early August 1986, with the outstanding differences between the House-and Senate-passed versions of H.R. 7 remaining unresolved, a child nutrition reauthorization provision was added as an amendment to the Senate-passed defense reauthorization bill (S. 2638).

LEGISLATION

P.L. 99-88, H.R. 2577
Makes supplemental appropriations for FY85. Allows school districts that were participating on Jan. 1, 1985 in a pilot project to study alternatives to commodities under the school lunch program to continue to do so through Dec. 31, 1985. The pilot project permits school districts to take cash in lieu of commodities or use letters of credit authorizing them to purchase specific types of food that the USDA would otherwise provide as commodities. Reported to House on May 22, 1985 (H.Rept. 99-142). Passed House as amended on June 12, 1985. Reported to Senate on June 13, 1985 (S.Rept. 99-82). Passed Senate as amended on June 20, 1985. Conference report filed in House on July 29, 1985 (H.Rept. 99-236). Passed both Houses on Aug. 1, 1985. Became P.L. 99-88 on Aug. 15, 1985.

P.L. 99-177, H.J.Res. 372
Balanced Budget and Emergency Deficit Control Act of 1985. Reduces the Federal Budget deficit from $171.9 billion in FY86 to zero in FY91. WIC and the child nutrition programs (except special milk) are exempt from sequestration. Introduced and passed House on Aug. 1, 1985. Reported to Senate on Sept. 26, 1985 (S.Rept. 99-144). Passed Senate on Oct. 10, 1985. Conference reports filed in House on Nov. 1, 1985 (H.Rept. 99-351) and on Dec. 10, 1985 (H.Rept. 99-433). Passed both Houses on Dec. 11, 1985. Signed by the President on Dec. 12, 1985.

H.R. 7 (Hawkins)
Amends the National School Lunch Act and the Child Nutrition Act of 1966 to extend authorizations through FY88 for certain expiring child nutrition programs. As reported, H.R. 7 would increase overall FY86 funding by $121 million. Sixty million of this amount would be used to increase WIC funding above the Congressional Budget Office current services level of $1.569 billion to $1.629 billion. CBO estimates that this additional $60 million would provide for an increase of approximately 120,000 participants per month. For fiscal years 1987 and 1988, H.R. 7 would authorize such sums as may be necessary for the WIC program. The remaining $61 million would be distributed as follows: (1) $42 million in increased Federal meal subsidies for breakfasts served through the school breakfast program, and the child care

food program; (2) $15 million to expand eligibility for the special milk program to kindergartens in schools that are currently ineligible to participate; (3) $3 million to raise the tuition limit on private school participation in child nutrition programs, from the current limit of $1500 to $2500 and adjusting this new amount for inflation; and (4) $1 million for food service equipment assistance. Introduced Jan. 3, 1985. Hearings held Apr. 2, 1985. Substitute ordered reported to Committee on Education and Labor by Subcommittee on Elementary, Secondary and Vocational Education, May 1, 1985. Reported from Committee May 7, 1985 (H.Rept. 99-96). Passed House Sept. 18, 1985. Passed Senate with amendments eliminating cost increase provisions and making other changes on Nov. 22, 1985.

H.R. 3037 (Whitten)

Makes FY86 appropriations for agriculture, rural development, and related agencies. The Committee on Appropriations recommends necessary funding to carry out school lunch and related child nutrition programs at the level provided under current law. It does not include increases proposed in H.R. 7 nor cuts proposed by the Administration. The Committee recommends $1.57 billion for WIC, an increase of $70 million from FY85 levels to maintain the current caseload in FY86. Reported to the House on July 18, 1985 (H.Rept. 99-211). Passed House on July 24, 1985. Reported to the Senate on Sept. 24, 1985 (S.Rept. 99-137). Passed Senate on Oct. 16, 1985. Conference report filed in the House on Dec. 12, 1985 (H.Rept. 99-439).

S.Con.Res. 32 (Domenici)

First Concurrent Resolution on the Budget. The budget resolution finally agreed to by both Houses assumes the House proposal which allows for an increase in child nutrition and food stamps programs of $400 million. This allows for the proposed changes in child nutrition programs under H.R. 7. Reported to Senate from Budget Committee on Mar. 20, 1985 (S.Rept. 99-15). House version reported to House on May 20, 1985 (H.Rept. 99-133, Pt. 1). Passed both Houses on Aug. 1, 1985 (H.Rept. 99-249, Conference).

S. 2638

National Defense Reauthorization Act, 1986. Includes a provision excluding expiring child nutrition programs through FY85 and making other program changes. Passed the Senate Aug. 9, 1986.

See CRS Issue Brief 85055.

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TAXATION

MLC-087

ENERGY TAXES

...source of new revenue?...

Projected large Federal budget deficits have led to congressional interest in possible sources of new revenue, including the imposition of a tax or fee on imported petroleum and/or an increase in the Federal excise taxes on gasoline and other motor fuels. The recent decrease in oil prices is viewed by some as an opportunity to levy such a tax without raising petroleum prices to end users above 1985 levels.

Oil Import Tax

Revenue raising is an important attribute of an oil import tax for some proponents. But others see such a tax also, or instead, as a means of raising domestic petroleum prices to levels that would encourage more domestic oil exploration and and production. The U.S. oil industry has greatly reduced exploration and development in response to the sharp drop in world oil prices since the end of 1985.

Some supporters justify an oil import tax by the need to reduce U.S. use of petroleum -- citing the cost of oil imports (including the social cost) in terms of dollars, uncertainty of supply, and political dependence. Although less oil is being imported than in the late 1970s, imports continue to account for a substantial share of total oil supply in the United States. Proponents argue that an import tax would prevent or minimize a decline in petroleum prices; such a decline would result in a resurgence of overall U.S. petroleum use, reduce the attractiveness of energy-efficient equipment in factories, on highways, and in homes, and curtail incentives for development of alternative energy resources.

Those opposed to an oil import tax contend that it will add to inflation or offset any drop in prices, hamper economic growth by raising the costs of living and of doing business, hurt low-income families disproportionately while boosting oil industry profits, and diminish the international competitiveness of U.S. industry. If additional revenues are needed, in this view, there are fairer and more economically efficient tax options to obtain them.

An oil import tax can be designed as either a *unit* tax or an *ad-valorem* tax. A unit tax would impose a constant dollar amount of tax per barrel of imported oil (say, a $15 or $10 per-barrel tax). An ad-valorem tax would impose the tax as a percentage of the price of oil per barrel (say, 10% of the import price per barrel).

A recent variation on the oil import tax idea is the variable import fee -- a unit excise tax equal to the difference between a *market* oil price and a *target* oil price. The amount of the tax or fee would vary inversely with the fluctuations in oil market prices. As the market price declines below a target price, the amount of tax per barrel increases. If the target price is set at $28 per barrel and oil prices reach $15 per barrel, the variable fee would be $13 per barrel.

The Reagan Administration is opposed to the idea of an oil import tax, and this has influenced congressional opinion and policy somewhat. The President has specifically rejected the idea on numerous occasions. In 1985, President Reagan opposed efforts to include an oil import tax as part of the budget resolution for FY86. The President did, however, include a version of the oil import tax as part of his State of the Union Address of 1983 as a contingency revenue source. And it is occasionally reported that the WHite House is reconsidering its opposition to an oil import tax.

Motor Fuel Taxes

Presently, Internal Revenue Code section 4081 imposes a 9 cent per gallon manufacturers excise tax on gasoline used for highway driving. Gasohol is exempted from 6 cents of the regular 9 cents per gallon tax. Section 4041 provides for a 15 cent per gallon retail excise tax on diesel fuel (and special motor fuels such as benzene, naptha, and liquefied petroleum gases) used for highway driving. A Federal excise tax on gasoline has existed since 1932; a tax on diesel fuel since 1951. From their initial levels of 1 cent and 2 cents per gallon, respectively, the taxes were gradually raised to 4 cents per gallon by 1959, where they remained for more than two decades.

According to most estimates, annual revenues from the Federal excise taxes on motor fuels would rise by about $1.1 billion for each one cent of increase in the tax for increases of up to about 25 cents per gallon. A much larger tax boost, say of 50 cents, would yield less per penny of tax increase, particularly in the long run. This is because an excise tax increase probably would result in higher motor fuel prices (including tax) to buyers and, consequently, a reduction in the amount of motor fuels purchased.

Advocates of an increase in the motor fuel excise taxes argue that the consequent reduction in motor fuel use probably would be almost entirely translated into lower imports of oil and, therefore, an improved trade balance; that such an excise tax boost has a smaller effect on the general price level than an oil import tax; and that a collection and administrative system already is in place.

Other economic effects, however, would be mixed or negative. Reduced use of motor fuels combined with lower prices (excluding the tax) to sellers would adversely affect the oil industry, and probably also the automobile and related service industries, while other sectors would benefit somewhat from increases in outlays on less petroleum-intensive activities. A motor fuel tax boost would affect residents of small more populated States more than residents of large less populated States, who drive more miles each year. According to many, the macroeconomic ramifications would be complex and largely negative. And, according to the majority of analysts, an increase in motor fuel taxes is regressive -- it imposes a relatively greater burden on the poor than on the rich.

LEGISLATION

Oil Import Tax

H.R. 4564 (Jones, J. et al.)

Amends the Internal Revenue Code to provide a deduction and special net operating loss rules with respect to certain losses on doemstic crude oil. Increases the tariffs on petroleum and petroleum products. Requires a Strategic Petroleum Reserve to be filled with stripper well oil. Eliminates certain restrictions on the sale of natural gas and on the use of natural gas and oil. Introduced Apr. 10, 1986; referred to Committees on Banking, Finance, and Urban Affairs; Ways and Means; and Energy and Commerce.

H.R. 4828 (Barton et al.)

Amends the Internal Revenue Code to impose an excise tax on: (1) the first sale within the United States of any crude oil or any petroleum product imported into the United States; and (2) the use within the United States of any crude oil or any petroleum product imported into the United States if no such tax has been imposed prior to such use. Introduced May 15, 1986; referred to Committee on Ways and Means.

H.Res. 12 (Conte)/H.Res. 244 (Rinaldo)

Declares that it is the sense of the House of Representatives that neither the President nor the Congress should impose any import fees on the importation of any crude oil or refined petroleum products. H.Res. 12 introduced Jan. 3, 1985; H.Res. 244 introduced July 30, 1985; both measures referred to Committee on Ways and Means.

S. 1412 (Hart)

Amends the Tariff Schedules of the United States to increase the duty on petroleum and petroleum products imported into the United States. Amends the Social Security Act to transfer the revenues created by such duty to the Federal Old-Age and Survivors Insurance Trust Fund. Introduced July 10, 1985; referred to Committee on Finance.

S. 1507 (Boren et al.)

Amends the Tariff Schedules of the United States to increase the duty on certain petroleum products imported into the United States. Introduced July 26, 1985; referred to Committee on Finance. Hearing held by Subcommittee on Energy and Agricultural Taxation Feb. 27-28, 1986.

S. 1997 (Wallop et al.)
Amends the Internal Revenue Code to impose an excise tax on the importation of crude oil and refined petroleum products. Sets a fluctuating rate for such tax dependent upon the world price of crude oil. Introduced Dec. 19, 1985; referred to Committee on Finance. Hearings held by Subcommittee on Energy and Agricultural Taxation, Feb. 27-28, 1986.

S. 2779 (Domenici et al.)
Amends the Internal Revenue Code of 1954 to impose a fee on the importation of crude oil and refined petroleum products to protect the national and energy security interests of the United States. Introduced Aug. 15, 1986; referred to Committee on Finance.

S. Amendment 2248 (Hart)
Amends H.J.Res. 668 (Statutory Increase in Public Debt Limit). Increases tariffs on petroleum and petroleum products. Introduced July 31, 1986. Tabled July 31, 1986.

S.Res. 335 (Pell et al.)
A resolution expressing the Senate's opposition to the imposition of a fee on imported oil and refined petroleum products. Introduced Feb. 6, 1986; referred to Committee on Finance.

Motor Fuel Taxes

H.R. 1541 (Beilenson et al.)
Amends the Internal Revenue Code of 1954 to reduce the Federal deficit by increasing the tax on gasoline and other motor fuels. Introduced Mar. 19, 1985; referred to Committee on Ways and Means.

H.R. 1909 (Seiberling et al.)
Amends the Internal Revenue Code of 1954 to reduce the Federal deficit and encourage fuel conservation by increasing the tax on gasoline. Introduced Mar. 2, 1985; referred to Committee on Ways and Means.

H.R. 2354 (Anthony et al.)
Imposes a 10..8% ad-valorem tax on the first 3 billion gallons of gasoline and motor fuel blending stock entered into the United States. Imposes a 21.6% ad-valorem tax on other type gasoline and motor fuel blending stock. Introduced May 6, 1985; referred to Committee on Ways and Means. Hearings held by Subcommittee on Trade Feb. 6, 1986.

H.R. 3801 (Seiberling et al.)
Amends the Internal Revenue Code to impose an additional excise tax on gasoline and gasoline mixed with alcohol. Sets the amount of such tax at (1) 10 cents during 1986; (2) 20 cents during 1987; (3) 30 cents during 1988; (4) 40 cents during 1989; (5) 50 cents during 1990; and 10 cents after 1990. Allows for a higher rate during 1991 if a Federal deficit persists. Introduced Nov. 20, 1985; referred to Committee on Ways and Means.

H.R. 4117 (Beilenson et al.)
Amends the Internal Revenue Code of 1954; reduces the Federal deficit by increasing the tax on gasoline and other motor fuels during periods of lower crude oil prices. Introduced Feb. 4, 1985; referred to Committee on Ways and Means.

S. 735 (Weicker)
Increases the excise tax on gasoline and diesel fuel by 10 cents per gallon beginning in FY86, by 20 cents per gallon in FY87, and by 30 cents per gallon in FY88. Introduced Mar. 26, 1985; referred to Committee on Finance.

S. 1359 (Lautenberg et al.)
Amends the Internal Revenue Code to extend the excise taxes on gasoline, diesel fuel, and special motor fuels and for other purposes. Introduced June 25, 1985; referred to Committee on Banking, Housing, and Urban Affairs.

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MLC-088

THE TAX REFORM ACT OF 1986 (H.R. 3838)

...overhaul of Federal tax code...

On Aug. 23, 1986, House and Senate conferees reached agreement on H.R. 3838, the Tax Reform Act of 1986, a major overhaul of the tax code. H.R. 3838 was originally passed by the House on Dec. 17, 1985, and by the Senate on June 24, 1986. Congress will take up the conference agreement in September.

On the individual side, the major focus of H.R. 3838 would be the reduction and compression of tax rates. Under current law, there are 14 joint and 15 single individual income tax brackets with tax rates ranging from 11% to 50%. The conference agreement has two tax rates: 15% and 28%. These two rates would go into effect in tax year 1988. For tax year 1987, five transition rates would be in effect; 11%, 15%, 28%, 35%, and 35.8%.

A standard deduction (s.d.) would replace the zero bracket amount (z.b.a.) and would be larger than the current z.b.a. The personal exemption would be increased from $1,080 in 1986 to $1,900 in 1987, $1,950 in 1988, and $2,000 in 1989. (The personal exemption would be phased out for upper income taxpayers.) These two provisions, combined with an expanded earned income tax credit, would raise the tax threshold and ensure that no families below the poverty level would have a Federal individual income tax liability. It is estimated that six million taxpayers will be removed from the tax rolls.

The conference agreement would broaden the base of the individual income tax through several provisions which would tax income not currently subject to tax. The dividend exclusion for individuals would be eliminated. Unemployment compensation would be fully taxable. The two-earner marital deduction would be repealed. A $5,000 limit would be placed on the exclusion for employer-provided day care. The exclusion for scholarships and fellowships would be repealed. The exclusion for certain prizes would be repealed but the exclusion for certain employee awards under a certain value would be retained. Income averaging would be repealed.

In addition, the provision for individual retirement accounts (IRAs) would be changed. Under the conference agreement, the current-law IRA deduction would be retained for individuals without employer-provided retirement plans. It would also be retained for joint filers with adjusted gross income (AGI) of $40,000 or less and single filers with AGI of $25,000 or less. The tax-free IRA deduction would phase out for joint filers between $40,000 and $50,000 and for single filers between $25,000 and $35,000. Taxpayers could still make non-deductible contributions to an IRA, and the earnings of these accounts would still be tax deferred.

Finally, the exclusion for net capital gains would be repealed and all net capital gains would be taxable as ordinary income. A major exception is that there would be no change in the current treatment of long-term capital gains related to the sale of a taxpayer's principal residence. Current law provides for the exclusion of the gain on the sale of a principal residence if the sale is followed by the purchase or construction of a new residence whose cost exceeds the [net] sales price of the old residence. Current law also provides for a once-in-a-lifetime exclusion of up to $125,000 of the gain realized on the sale of a principal residence for taxpayers aged 55 or over at the time of the sale.

Several changes would affect provisions for itemized deductions. The floor above which medical expenses could be deducted would be increased from 5% of AGI to 7.5% of AGI. State and local income and property taxes would remain fully deductible, but the sales tax deduction would be repealed. Home mortgage interest payments on first and second homes would remain fully deductible. However, interest on loans in excess of the amount of the purchase price plus the cost of any improvements would not be deductible unless the loans were incurred for educational or medical expenses. All other consumer interest would be phased out over 5 years; 35% would be disallowed in 1987, 60% in 1988, 80% in 1989, 90% in 1990, and 100% in 1991. The deduction for investment interest would be limited to net investment income. The deduction for charitable contributions for nonitemizers would be allowed to expire at the end of 1986.

H.R. 3838, as approved by the Conference Committee, would implement a wide range of changes in business taxation. In very broad terms, the Conference Committee measure combines a reduction of the statutory tax rates that apply to taxable income with a broadening of the tax base.

In terms of the number of corporations that would be affected, the most important changes proposed by the Conference Committee are its reduction of statutory tax rates, repeal of the investment tax credit, revision of depreciation rules, and adoption of an alternative minimum tax for corporations. Briefly, the Committee plan would make a large reduction in statutory tax rates, lowering the top statutory corporate tax rate from its current level of 46% to 34%. The Committee's proposed depreciation changes would generally reduce the rate at which the cost of assets can be deducted. Accordingly, depreciation deductions would be less valuable for corporations. The measure's proposed alternative minimum tax is designed to ensure that most corporate profits are subject to at least some taxes.

Both the House and Senate tax bills that preceded the Conference Committee plan contained changes in each of the major areas listed here, although there are differences between the two bills. Not suprisingly, the provisions of the Conference Committee plan tend to fall between those of the House and Senate plans. The House bill, for example, proposes a top corporate statutory tax rate of 36%, while the Senate proposes a top rate of 33%; the Conference Committee's top rate of 34% thus falls between the House and Senate bills.

In general, the House bill provides less generous depreciation rules for equipment than does current law, while the Senate bill generally would retain allowances for equipment at their current level. The Conference Committee would provide depreciation rules for equipment that generally are less generous than under current law, but more generous than under the House bill.

The alternative minimum tax proposed by the Conference Committee contains elements of both the House-approved minimum tax and that approved by the Senate. The Committee adopted the 20% minimum tax rate proposed by the Senate rather than the 25% rate proposed by the House. The base of the Conference Committee minimum tax, however, contains items of both the House and Senate proposals.

Finally, the Conference Committee would repeal the investment tax credit, as did both the House and Senate tax reform bills.

The tax revisions approved by the Conference Committee would combine to generally increase the aggregate level of the corporate income tax, although the bill's impact would vary from firm to firm. It should be noted, however, that income that has its source in the corporate sector is subject to individual income taxes as well as the corporate income tax. And, since the Conference Committee proposal would generally reduce individual income taxes, it is likely that the combined individual and corporate income tax burden on corporate-source income would not be greatly changed from its current level.

Perhaps a more important effect of the changes proposed under either bill is the evening-out of taxes paid by different firms and industries, and different types of investment. Under current law, income earned by different firms, and income produced by different investments is taxed at widely varying effective rates. Economic theory indicates that this uneveness distorts investment decisions by businesses, and results in a loss of economic efficiency.

An additional effect of the Conference Committee plan would be to reduce the number of corporations that do not pay taxes while making substantial profit. In the first 3 years following the bill's enactment, a part of corporate "book" earnings (profits as reported to stockholders) would be included in the base of the minimum tax. Beginning in 1990, book profits would be replaced in the minimum tax base by earnings and profits, determined according to definitions set forth in the Internal Revenue Code. As a consequence of the inclusion of book profits and earnings and profits in the minimum tax base, it is probable that the amount of corporate income that escapes taxation altogether will be reduced, and the number of corporations without tax liabilities will likewise fall. It should be noted, however, that some have voiced doubts about the practicality of basing a tax on an accounting concept such as "book income." Further, since even "book" income is not always identical to economic income, there is no guarantee that every firm with economic income will pay taxes under the committee plan.

LEGISLATION

H.R. 3838 (Conference Agreement)

House version introduced Dec. 3, 1985; referred to Committee on Ways and Means. Reported to House Dec. 7, 1985. Considered and passed by House Dec. 17, 1985.

H.R. 3838 (Packwood et al.)

Received in the Senate Dec. 16, 1985; referred to Finance Committee. Reported to Senate May 29, 1986. Considered in Senate from June 4 to June 24. Passed Senate June 24, 1986.

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MLC-089

TAX REFORM: IMPACT ON RENTAL HOUSING AND HOMEOWNERSHIP

...rents and homeownership costs to increase...

On Aug. 16, 1986, congressional conferees agreed upon major changes in tax code provisions affecting rental housing and homeownership. The momentum is such that H.R. 3838, the Tax Reform Act of 1986, is likely to be signed into law by the President by October.

Real Estate Investors

Investors in rental housing would feel substantial impact. The most controversial provision is the rental loss limitation. Rental "lossese, including those from limited partnerships already in existance, could not be deducted from active income (salary, dividends) but only used to offset other rental income. There would be a small investor exception. Those with incomes below $100,000 could take up to $25,000 of rental losses against wages and salary income if they actively participate in the management of the property. There would be a 5-year phase-in of disallowed losses, and losses that could not be used in any one year could be carried forward.

Depreciation deductions would be made less generous for rental housing placed in service after 1986, going from the current 19-year schedule to 27.5 years. Beginning in 1987, 100% of capital gains (profits) from real estate sales would be taxed as ordinary income (at lower tax rates) compared to 40% today.

Tax-exempt bond financing for multi-family rental housing would be continued with modifications through 1988. There would be new tax credits for low-income housing to replace current tax incentives. A 9% annual credit for 10 years would be available for newly constructed or rehabilitated units; 4% if tax-exempt bond financing or other Federal subsidies were also used.

Owner Occupied Housing

Under the tax conferee agreement, homeowners would still be favored. Mortgage interest would remain deductible on a first and second home although subject to new restrictions. Interest on a loan amount greater than the purchase price of a first or second home plus improvements would not be deductible except for home-equity loans used for education, medical expenses, and home improvements. Property taxes would continue to be fully deductible. Homeowners with substantial mortgages and property taxes would find their housing costs higher because, with lower tax rates, the tax savings from these deductions would be less. The current capital gains rollover (tax on profit from a home sale deferred if a more expensive one is bought) and the $125,000 of tax-free profit from a home sale for homeowners age 55 or over would both be kept.

The mortgage subsidy bond program that has provided below-market rate mortgages for approximately 200,000 first-time home buyers in each of the last several years would be kept through 1988 with modifications.

In summary, under the tax-reform provisions agreed upon by the conferees, rents are expected to move higher than otherwise to offset the loss of current tax benefits that now encourage investors to construct and rehabilitate rental housing. Homeowners would still be favored. In general, real estate investments would be based more on economic factors than on tax considerations which should lead to more efficient use of capital.

LEGISLATION

H.R. 3838 (Rostenkowski et al.)
Enacts the Internal Revenue Code of 1986. Revises the tax treatment of rental housing and homeownership. Introduced Dec. 3, 1985; referred to Committee on Ways and Means. Reported Dec. 7, 1985 (H.Rept. 99-426). Passed House Dec. 17, 1985. Reported by Senate Committee on Finance, amended, May 29, 1986 (S.Rept. 99-313). Passed Senate, amended, June 24, 1986. Conference held. Conferees reached agreement Aug. 23, 1986.

Richard Bourdon

TRADE AND INTERNATIONAL FINANCE

MLC-090

JAPAN-U.S. TRADE RELATIONS

...serious trade confrontation...

Trade relations between the United States and Japan reached new heights of acrimony and confrontation during 1985. An escalating bilateral trade deficit, an accumulating series of frustrating negotiations to open Japan's market to U.S. exports, and growing resentment in Toyko over U.S. pressure, combined to ignite the most serious trade confrontation in the post-war era.

Disagreements and difficult negotiations on a range of bilateral issues have continued during 1986.

Widespread dissatisfaction with Japan's trading practices exists in the Congress and private sector. Because most of the bilateral friction has deep-rooted economic and social causes, quick or easy solutions are elusive.

At the same time the growing trade imbalance and Japanese trade barriers threaten to undermine the overall relationship, the United States and Japan are becoming more closely linked economically through increases in joint ventures, coproduction agreements, and capital flows. This increased mutual dependence hikes the costs of a potential break in trade ties between the two countries.

LEGISLATION

H.R. 1050 (Dingell et al.)
Temporarily restricts auto imports in order to remedy the existing and threatened serious injury to the domestic auto industry. Introduced Feb. 7, 1985; referred to Committees on Energy and Commerce, and Ways and Means. Hearings held Feb. 28, 1985 by Subcommittee on Trade.

H.R. 1060 (Lundine et al.)
Imposes a quota on the number of motor vehicles produced in Japan that may be imported into the United States between Apr. 1, 1985, and Mar. 31, 1986. Terminates such quota 30 legislative days after the recommendations of the Auto Strategy Council are submitted to the Congress and the President. Establishes the Auto Strategy Council to (1) analyze the implication for the future competitiveness of the U.S. auto industry of the removal of quotas on Japanese motor vehicles; (2) develop a strategy to improve the international competitiveness of the U.S. auto industry; and (3) identify the impact of continuation of auto restrictions of Japanese auto imports on other economic sectors and trade with other nations. Requires the Council to make recommendations to the Congress and President by Dec. 31, 1985. Terminates the Council after it makes its report. Introduced Feb. 7, 1985; referred to Committee on Ways and Means. Hearings held Mar. 4, 1985, by Subcommittee on Trade.

H.R. 1892 (Kaptur)
Establishes the Bernard Baruch Trade Fairness Mission to analyze the key product areas that account for the major trade imbalances between the United States and other nations. Limits imports from Japan for a specified period of time. Introduced Apr. 2, 1985; referred to Committee on Ways and Means.

H.R. 1944 (Hillis et al.)
Imposes a surcharge on the importation of Japanese products until such time as the President determines that Japan has made significant progress in eliminating non-tariff barriers. Introduced Apr. 13, 1985; referred to Committee on Ways and Means.

H.R. 2006 (Kaptur)
Imposes quotas on Japanese-made motor vehicles until the United States producers are given equitable and fair access to Japanese markets. Introduced Apr. 4, 1985; referred to Committee on Ways and Means.

H.R. 2015 (Regula et al.)
Authorizes the President to impose tariff surcharges on articles imported from Japan, France or any NATO country if the President determines that the cost of providing such country with defense assistance should be offset by tariff surcharges. Introduced Apr. 4, 1985; referred to Committee on Ways and Means.

H.R. 2037 (Rinaldo)
Requires that the Federal Communications Commission (FCC) establish stringent standards for processing of applications for certification of telephone terminal equipment from countries which discriminate against equivalent American products. Introduced Apr. 15, 1985; referred to Committee on Energy and Commerce.

H.R. 4800 (Wright et al.)
Omnibus trade legislation includes provision designed to force Japan and several other countries to reduce their global trade surpluses. Introduced May 9, 1986; referred to more than one committee. Passed House, amended, May 22. Referred in Senate to Committee on Finance June 2, 1986.

H.Con.Res. 107 (Rostenkowski et al.)
Expresses the sense of the Congress that the President take action to reduce the growing United States merchandise trade deficit and that he take action to respond to unfair international trade practices of Japan. Introduced Apr. 2, 1985; referred to Committee on Ways and Means. Reported Apr. 2 (H.Rept. 99-35). Passed House Apr. 2, 1985.

S. 942 (Danforth et al.)
Directs the U.S. Trade Representative to (1) identify and analyze trade practices of foreign countries that deny to U.S. telecommunications firms substantially equivalent competitive opportunities; and (2) determine which of such practices denies trade agreement benefits to the United States, is unjustifiable and burdens or restricts U.S. Commerce, or otherwise nullifies or impedes U.S. trade benefits. Directs the President to negotiate trade agreements with such countries or if unable to enter into such an agreement to take other actions to achieve specified negotiating objectives. Introduced Apr. 17, 1985; referred to Committee on Finance. Hearings held May 3, 1985, by the Subcommittee on International Trade. Reported by Committee on Finance Nov. 26, 1985 (S.Rept. 99-204). Provisions of S. 720 incorporated in reported measure.

S. 1404 (Packwood)
Mandates Presidential action against Japanese unfair trade practices. Introduced July 9, 1985; referred to Committee on Finance. Reported July 9 (S.Rept. 99-102).

S.Con.Res. 15 (Danforth)
Prohibits ending the voluntary restraint on imports of Japanese automobiles until U.S. exports to Japan are substantially increased and the U.S. trade deficit with Japan is substantially reduced. Passed Senate Mar. 28, 1985, amended.

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MLC-091

TEXTILE IMPORTS UNDER THE MULTI-FIBER ARRANGEMENT

...situation would be chaotic without MFA...

International trade in textiles and apparel is regulated by the Multi-fiber Arrangement, a multilateral agreement which has been renegotiated for another 5 years beyond July 31, 1986. Despite revisions which amplify the authority for limiting imports, the textile industries of North America and Europe consider that the MFA is ridden with loopholes and not enforced adequately. Developing country exporters and some U.S. consumer groups believe, on the contrary, that textile trade has been excessively restricted. But despite dissatisfaction on both sides, there is tacit acknowledgement that the trading regime would be unacceptably chaotic without an MFA.

Legislation has been introduced in the 99th Congress in order to better insure "the effective enforcement of import levels... contemplated by the MFA." Whereas the MFA is couched in very general terms, H.R. 1562 would establish specific quotas for each textile product category from almost every exporting country. The President vetoed the bill shortly after it was passed in December 1985, but reconsideration was postponed until August 1986. At that time the House failed to override, by a margin of eight votes.

LEGISLATION

H.R. 1562 (Jenkins et al.)/S. 680 (Thurmond et al.)
Textile and Apparel Trade Enforcement Act of 1985. *As revised,* limits imports of textile and apparel products by establishing country-by-country quotas for every category of these products (except those made of silk). Distinguishes four groups of countries: (1) Canada, insular U.S. possessions and the first 10 members of the European Economic Community, these areas having no import limits under this bill; (2) "major producing countries" (Taiwan, South Korea and Hong Kong), which could have their shipments cut back in the first year; (3) "producing countries" (those with a share of U.S. imports between 1.25 and 10.%), which would be allowed future growth of 1% per year in each product category; and (4) "small producing countries" (including Caribbean countries regardless of their shares), which would be allowed a 15% increase in the first year and 6% in subsequent years, but lower rates for "import sensitive" categories. Additional titles deal with imports of footwear and copper.

Original version of bill (which had stricter limits on textile imports and no imports on footwear or copper) introduced in both Houses Mar. 19, 1985. H.R. 1562 referred to Committee on Ways and Means, Subcommittee on Trade; reported favorably Sept. 26, 1985 (H. Rept. 99-293). Passed House Oct. 10, 1985 on vote of 262-159. S. 680 referred to Committee on Finance. Hearings held July 15, Sept. 12 and 13, 1985. Senate Amendment 1015 (Thurmond and Hollings) offered on floor as amendment in the nature of a substitute and adopted Nov. 13, 1985 on vote of 60-39. Amended version accepted by House Dec. 3, 1985 on vote of 255-161. Vetoed by President Reagan Dec. 17, 1985. House failed to override veto by vote of 276-149 on Aug. 6, 1986.

H.R. 2721 (Garcia and Ackerman)
Directs U.S. Department of Commerce to conduct quarterly, rather than annual, surveys of production statistics on the textile and apparel industries, with mandatory response by firms. Introduced June 11, 1985; referred to Committee on Post Office and Civil Service, Subcommittee on Census and Population. Hearing held June 26, 1985. Reported favorably Apr. 8, 1986 (H. Rept. 99-511). Passed under suspension of

the rules Apr. 14, 1986. Received in Senate and referred to Committee on Governmental Affairs, Subcommittee on Energy and Goverment Processes. Ordered to be reported by Committee on Governmental Affairs Aug. 12, 1986. Executive comment received from Commerce Department and O.M.B.

H.R. 4800 (Wright et al.)
Omnibus trade bill. Amendment No. 851 (Broyhill) adds a Section 703. The section would direct the Secretary of Commerce to expedite the process of requesting bilateral consultations on establishing further textile import limitations. Amendment adopted by voice vote on May 22, 1986. H.R. 4800 passed House on same day. Received in Senate and referred to Committee on Finance.

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MLC-092

TRADE LAW REFORM

...comprehensive bill passed...

Concern about widespread import penetration, alleged job and market losses, and the large trade and current account deficits has stimulated proposals in the 99th Congress to change U.S. trade laws. Many trade proposals were included in H.R. 4800, a comprehensive, 458-page bill with eight titles, that was passed by the House on May 22, 1986. Among the major provisions of the House bill are the authority for a new round of multilateral trade negotiations; measures to ensure better access to foreign markets for U.S. exporters; export expansion provisions; relief for U.S. industries injured by fairly priced imports; reforms of laws to counter unfair trade practices; proposals to deal with exchange rate and international debt problems; and amendments to the U.S. Generalized System of Preferences. The Senate is considering several bills that propose extensive changes in trade law.

Despite the support for trade law reform in the Congress, the prospects for enactment of a comprehensive new trade law are clouded by opposition from the Reagan Administration. Administration spokesmen have branded H.R. 4800 protectionist and have threatened a veto of any bill containing certain provisions opposed by the Administration.

Supporters of proposals to strengthen governmental options on U.S. trade laws advance several rationales. They believe that it is in the interest of the United States to provide greater protection for workers and firms seriously injured by import competition or face an erosion of income and working conditions to levels toward those of competing industries in the newly industrialized countries. They maintain that the Federal Government must play a role in enhancing the competitiveness of U.S. firms at home and abroad. And they argue that new initiatives are needed to create a fairer world trading system, which will promote trade and benefit all countries.

Opponents have criticized some of the trade reform proposals on the grounds that they are protectionist, benefiting inefficient producers at the expense of U.S. consumers, or that they are not responsive to the fundamental causes of U.S. trade and current account deficits. They maintain that some of the proposals will restrict trade flows, lead to foreign retaliation, and ultimately reduce economic growth in the United States and abroad. Moreover, they maintain that U.S. monetary and fiscal policies, through their effects on exchange rates, have generated the trade and current account deficits. Consequently, they argue that changes in macroeconomic policies, not trade law reform, are the appropriate way to address U.S. trade problems.

LEGISLATION

H.R. 4800 (Wright et al.)
Amends the trade laws of the United States. Sets forth U.S. telecommunications trade policy. Increases export promotion activities. Establishes a Competitive Tied Aid Fund and a Council on Industrial Competitiveness. Establishes education and training programs to increase U.S. competitiveness. Sets forth U.S. agricultural trade policy. Makes miscellaneous changes in the U.S. Tariff Schedules. Introduced May 9, 1986; referred to more than one committee. Passed House, amended, May 22: Referred in Senate to Committee on Finance June 2, 1986.

S. 942 (Danforth et al.)
Directs the U.S. Trade Representative to (1) identify and analyze trade practices of foreign countries that deny to U.S. telecommunications firms substantially equivalent competitive opportunities; and (2) determine which of such practices denies trade agreement benefits to the United States, is unjustifiable and burdens or restricts U.S. commerce, or otherwise nullifies or impedes U.S. trade benefits. Directs the President to negotiate trade agreements with such countries or if unable to enter into agreements, to take other actions to achieve specified negotiating objectives. Introduced Apr. 17, 1985; referred to Committee on Finance. Reported, amended, Nov. 26, 1985 (S.Rept. 99-204).

S. 1356 (Heinz et al.)
Sets forth national trade objectives. Amends the Trade Act of 1974 to transfer from the President to the U.S. Trade Representative the authority to take certain import relief actions. Provides that injurious industrial tarketing may trigger import relief actions. Amends the Tariff Act of 1930 to add requirements for a country to be considered a "country under the Agreement" for purposes of the countervailing duty provisions of such Act. Introduced June 25, 1985; referred to Committee on Finance. Hearings held by Subcommittee on International Trade June 26, 1986.

S. 1404 (Packwood)
Directs the President to take all actions within the power of the President that are necessary to (1) enforce U.S. rights under trade agreements with Japan and obtain the elimination of certain Japanese trade acts, policies, and practices; (2) offset the cumulative impact that unenforced trade rights and uneliminated trade acts, policies, and practices have on the U.S.-Japanese balance of trade. Introduced July 9, 1985; referred to Committee on Finance. Reported July 9, 1985 (S. Rept. 99-102).

S. 1655 (Specter et al.)
Amends the Clayton Act and the Unfair Competition Act of 1916 to provide for the private enforcement of prohibitions concerning the importation or sale of merchandise in U.S. commerce. Introduced Sept. 18, 1985; referred to more than one committee. Report filed by Committee on Judiciary May. 13, 1986 (S. Rept. 99-295). Hearings held by Subcommittee on International Trade July 18, 1986.

S. 1860 (Danforth et al.)
Sets forth U.S. trade policy. Amends the Trade Act of 1974 to (1) eliminate and reduce barriers and distortion of trade; (2) change the procedures in import relief investigation; and (3) provide authority for a new round of trade negotiations. Sets forth U.S. policy relating to exchange rates and developing country debt. Amends the Tariff Act of 1930 to change the method of dealing with dumping from nonmarket economy countries. Adds new protections for intellectual property rights and patented processes. Amends the Foreign Corrupt Practices Act of 1977 to establish a Business Practices and Records Act Review Procedure. Introduced Nov. 20, 1985; referred to Committee on Finance. Hearings held by Subcommittee on International Trade May 15 and June 17, 1986.

S. 2033 (Chiles et al.)
Amends the Trade Act of 1974 to require the U.S. Trade Representative to take certain actions to open foreign markets to U.S. exporters. Directs the Secretary of the Treasury to establish a program of tied aid credits for U.S. exports. Changes the import relief provisions of the Trade Act of 1974. Introduced Jan. 30, 1986; referred to Committee on Finance.

S. 2099 (Roth, W. et al)
Amends the Trade Act of 1974 to change the requirements for import relief petitions and investigations. Authorizes the use of antitrust exemptions and multilateral negotiations as alternative forms of import relief. Introduced Feb. 25, 1986; referred to Committee on Finance. Hearings held July 17, 1986.

George Holliday

TRANSPORTATION

MLC-093

CONRAIL

...a public sale is possible during 99th Congress...

The Consolidated Rail Corporation (Conrail) is owned by the Federal Government (85%) and Conrail's own employees (15%). The now-profitable railroad is available for sale, under authority established by the Northeast Rail Service Act of 1981 (NERSA) (P.L. 97-35, 95 Stat. 357). That sale cannot be completed without enactment of appropriate legislation.

Senator Danforth's bill to sell Conrail, S. 638, passed the Senate.

The House Energy and Commerce Committee held hearings on Apr. 18, 30, and June 12, 1985, on the proposed sale of Conrail.

The House Ways and Means Committee held hearings on May 1, 1985 on H.R. 1930, dealing with tax aspects of a sale of Conrail to Norfolk Southern Corporation.

On Aug. 22, 1986, Norfolk Southern Corporation formally withdrew its proposal to buy Conrail.

A proposed amendment to H.R. 5300, the budget reconciliation bill, offered by Representative Loeffler on Aug. 13, 1986, contains language cited as the "Conrail Public Sale Act of 1986." (See *Congressional Record*, Aug. 13, 1986, pages H6194 through H6197.)

The Chairman of the House Energy and Commerce Committee, John Dingell, wrote to the House Rules Committee on Aug. 6, 1986. His letter reportedly asked the Rules Committee not to permit any Conrail amendments to be offered or attached to the budget reconciliation bill, H.R. 5300. He reportedly stated that Conrail matters lie within the jurisdiction of his committee and that he expects Congress to approve a public sale of Conrail during 1986.

Current developments, and background information, are contained in CRS Issue Brief 84142, frequently updated.

LEGISLATION

H.R. 787 (Edgar et al.)
Allows Conrail to be sold by an offering of common stock to the public. Introduced Jan. 30, 1985; referred to Committee on Energy and Commerce.

H.R. 1449 (Broyhill et al.)
Transfers Conrail to the private sector. Introduced Mar. 6, 1985; referred to Committee on Energy and Commerce.

H.R. 1930 (Rostenkowski et al.)
Addresses tax implications of the sale of Conrail to Norfolk Southern Corporation. Introduced Apr. 3, 1985; referred to Committees on Energy and Commerce, and Ways and Means. Hearings were held May 1, 1985.

H.R. 2873 (Eckart et al.)
Transfers Conrail to the private sector. Introduced June 26, 1985; referred to Committee on Energy and Commerce and Committee on Ways and Means.

H.R. 3047 (Murphy et al.)
Eliminates the requirement that Conrail be sold and requires repayment of some loans made by the United States to Conrail. Introduced July 18, 1985; referred to Committee on Energy and Commerce.

S. 638 (Danforth et al.)
Conrail Sale Amendments of 1985. Permits the sale of Conrail to Norfolk Southern Corporation and brings existing law into conformance with that sale. Introduced Mar. 7, 1985; referred to Committee on Commerce, Science, and Transportation. Markup held Apr. 18, 30, 1985. The Committee voted on Apr. 30, 1985, to report the bill favorably to the full Senate, with amendments. Reported June 27, 1985 (S.Rept. 99-98). Passed Senate, amended, Feb. 4, 1986.

S. 976 (Specter)
Consolidated Rail Corporation Profit Transfer Act of 1985. Requires Conrail profits to be transferred to Amtrak. Introduced Apr. 23, 1983; referred to Committee on Commerce.

S. 1137 (Specter)
Conrail Public Offering Act of 1985. Requires Conrail to be sold by public offering in accordance with a proposal presented by Morgan Stanley and Company on May 14, 1985. Introduced May 15, 1985; referred to Committee on Commerce.

S. 1361 (Specter et al.)
Conrail Public Sale Act. Transfers Conrail to the private sector by public offering of stock. Introduced June 26, 1985; referred to Committee on Commerce, Science and Transportation.

Stephen J Thompson
IB84142

MLC-094

FEDERAL HIGHWAY AND TRANSIT PROGRAM REAUTHORIZATION LEGISLATION

...House and Senate act upon legislation...

Authorizing legislation for the Federal highway and mass transportation assistance programs expires at the end of FY86. In FY86, the Federal highway assistance program provided more than $13 billion in funding for the construction and reconstruction of interstate and other highways on the Federal aid system. The mass transportation assistance program provided an additional $3 billion plus in capital and operating assistance for the Nation's transit systems during the same period.

State governments rely on Federal assistance for more than a quarter of their annual highway budgets. Transit systems are equally dependent on the continuation of assistance for a major portion of their overall budgets. As a result Congress is under significant pressure to continue these programs without lapse.

Most of the funds for the Federal highway program and a significant portion of the funds made available for the transit program are derived from the highway trust fund. The trust fund, which must be reauthorized by FY88, is receiving funds via the Federal fuel tax and other sources at a rate significantly above expenditures under the existing program. The growing positive balance in the trust fund is becoming an issue of importance in its own right. Several Members of Congress have expressed interest in expanding the highway and transit programs to utilize these additional funds. Other Members of Congress, however, object to higher authorizations for the highway and transit program on budgetary grounds.

As of Sept. 8, 1986, the Senate Committee on Banking, Housing and Urban Affairs has not reported new authorizing legislation for the mass transportation assistance program.

Although the obligational levels in House and Senate highway legislation are similar there are major programmatic differences in them. The House bill, for example, contains a large number of demonstration projects that are not addressed in the Senate bill.

LEGISLATION

H.R. 3129 (Anderson, G. et al.)
Surface Transportation and Uniform Relocation Assistance Act of 1985. Provides a 5-year authorization of almost $92 billion for continuation of the Federal highway and mass transportation assistance programs. Introduced July 31, 1985; referred to Committee on Public Works and Transportation. Reported, amended, July 2, 1986 (H.Rept. 99-665). Passed House, amended, Aug. 15, 1986.

S. 2405 (Symms, et al.)
Federal-Aid Highway Act of 1986. Provides new authorizations for continuation of the Federal highway assistance program at obligational levels comparable to those found in H.R. 3129. Introduced May 6, 1986; referred to Committee on Environment and Public Works. Reported, amended, Aug. 5, 1986 (S. Rept. 99-369).

John W. Fischer

MLC-095

RAILROAD ECONOMIC REGULATION

...Act might be amended in 1986...

The Staggers Rail Act of 1980 (P.L. 96-448, 96 Stat. 1895, enacted on Oct. 14, 1980) generally is considered the most significant reduction in Federal regulation of railroads since 1887 when Federal regulation of railroads began. Large railroads are happy with how the Act has enabled them to become more like other businesses in the United States, but some short-line railroads, and some shippers of bulk commodities, such as coal, are unhappy. They claim that railroads are not like other businesses because, for many, shippers, only one railroad has tracks that reach their facilities. For this reason they feel captive to that railroad. (The ICC can order such a railroad to allow other railroads to operate over those tracks. Complaining shippers see that protection as inadequate.)

The Railroad Antimonopoly Act of 1985, H.R. 1140, passed the House Judiciary Committee but was forwarded, with an unfavorable recommendation, by the House Energy and Commerce Committee to which the bill was sequentially referred. Hearings were held by the Senate Judiciary Committee on S. 447, the Railroad Antimonopoly Act of 1985, on Apr. 23, 1985. The Consumer Rail Equity Act, H.R. 4096, has about 100 cosponsors and has informally been the subject of hearings called for other purposes. A similar bill, S. 477, has been the subject of Senate hearings. The Consumer Rail Equity Act would significantly alter maximum rail rates, market dominance, rail revenue adequacy, rail rate reasonableness, and some other aspects of rail regulation.

A subcommittee of the House Energy and Commerce Committee has called for amendments to the Staggers Act to be enacted during 1986. This possibly could be part of any bill to sell Conrail.

CRS Issue brief IB85017 discusses the Staggers Rail Act of 1980 and interest during the 98th and 99th Congresses in amending rail economic regulation.

LEGISLATION

H.R. 1140 (Seiberling et al.)
Railroad Antimonopoly Act of 1985. Amends the Sherman Act to prohibit a rail carrier from denying to shippers of certain commodities, with intent to monopolize, use of its transportation. Introduced Feb. 29, 1985; referred to Committee on Judiciary. Hearings held June 27, 1985. Reported Apr. 24, 1986, Rept. 99-559, Part 1. Hearings held June 5, 1986, by the House Committee on Energy and Commerce, and on June 12, 1986, it unfavorably reported the bill. Committee on Energy and Commerce reported H.R. 1140 July 15, 1986 (H.Rept. 99-559, Part 2).

H.R. 1190 (Tauzin et al.)
Consumer Rail Equity Act. Enhances rail competition and ensures reasonable rail rates where there is an absence of effective competition. Introduced Feb. 21, 1985; referred to Committee on Energy and Commerce.

H.R. 4096 (Tauzin et al.)
Consumer Rail Equity Act. This bill is similar to H.R. 1190 and is generally considered the successor bill to H.R. 1190. H.R. 4096 is similar to S. 477. As of July 31, 1986, H.R. 4096 had 96 cosponsors. Introduced Jan. 30, 1986; referred to Committee on Energy and Commerce.

S. 447 (De Concini)
Railroad Antimonopoly Act of 1985. Almost identical to H.R. 1140. Introduced Feb. 7, 1985; referred to Committee on Judiciary. Hearings held Sept. 24, 1985, Mar. 4, 1986.

S. 477 (Andrews et al.)
Consumer Rail Equity Act. This bill is similar to H.R. 4096. Introduced Feb. 20, 1986; referred to the Committee on Commerce, Science, and Transportation. Subcommittee held hearings on S. 477 on Feb. 21, 1985. A Star Print bill (a revised bill) S. 477 was ordered by unanimous consent on Oct. 31, 1985. As of July 31, 1986, S. 477 had 18 cosponsors.

S. 2447 (Kassebaum et al.)/H.R. 4999 (Slattery et al.)
Agricultural Shipper Protection Act of 1986. Requires the ICC to make available to the general public certain elements of any railroad contract on the transportation of agricultural commodities, including forest products and paper. The required disclosure would not necessarily include the rail rate or other financial terms except any actual volume requirements. S. 2447 introduced May 14, 1986; referred to Committee on Commerce, Science, and Transportation. H.R. 4999 introduced June 11, 1986; referred to Committee on Energy and Commerce.

Stephen J Thompson
IB85017

MLC-096

TRUCKING ECONOMIC REGULATION

...Senate holds hearings on Administration bill to deregulate trucking...

On Sept. 27, 1985, the Senate Commerce Committee held hearings on S. 1711, the Administration's bill to deregulate the trucking industry except haulers of household goods. The Secretary of Transportation, Elizabeth Dole, expressed strong support for deregulating trucking at this time. The Chairman and two Commissioners of the Interstate Commerce Commission testified. All three supported that position. The Administration's bill, entitled the Trucking Deregulation Act of 1985, was introduced on the previous day, September 26, by Senator Danforth by request. Representative Moody testified at those hearings in support of trucking deregulation, and, in particular, for the concepts contained in his trucking deregulation bill, H.R. 3222.

Other witnesses testified on S. 1711. The American Trucking Associations, the International Brotherhood of Teamsters, the National Association of State Regulatory Officials, a State Senator and several trucking company spokespersons testified against further deregulation of trucking in general, and against S. 1711 in particular. Most spokespersons for shippers, shipper groups, and some trucking companies, testified in support of further deregulation of trucking and S. 1711. One shipper testified that small shippers are not benefitting as much as large shippers.

The House held oversight hearings on the Motor Carrier Act of 1980 on Nov. 5, 6 and 6, 1985. Representatives Moody and DeLay testified in support of their trucking deregulation bill, H.R. 3222. H.R. 3929, the Administration's trucking deregulation bill, was introduced by request on December 12 by Representative Howard.

Further information on trucking economic regulation is contained in CRS issue brief IB76019.

LEGISLATION -

H.R. 3222 (Moody et al.)
National Motor Carrier Productivity and Safety Improvement Act. Reduces ICC regulation, and streamlines State regulation and licensing of trucking. Introduced Aug. 1, 1985; referred to Committee on Public Works and Transportation.

H.R. 3929 (Howard, by request)
See S. 1711.

S. 1124 (Packwood)
Surface Freight Forwarder Deregulation Act of 1985. Eliminates rate and entry controls. Eliminates antitrust immunity to meet and set freight rates. Introduced May 14, 1985; referred to Commerce Committee. Reported from the Committee on July 31, 1985 (S.Rept. 99-120, Calendar No. 264). Passed Senate, amended, Nov. 4, 1985. Hearings on S. 1124 were scheduled for June 18, 1986, before the House Committee on Public Works and Transportation, but were not held.

S. 1710 (Hollings)
Establishes a Motor Carrier Administration within the Department of Transportation. Introduced Sept. 26, 1985; referred to Committee on Commerce.

S. 1711 (Danforth, by request)/H.R. 3929 (Howard, by request)
Trucking Deregulation Act of 1985. Eliminates most economic regulation of trucking, except for haulers of household goods. Consumer matters to be transferred to the Federal Trade Commission. S. 1711 introduced Sept. 26, 1985; referred to Committee on Commerce. H.R. 3929 introduced Dec. 12, 1985; referred to Committee on Public Works and Transportation.

S. 2240 (Packwood)
Phases out Federal economic regulation of trucking companies which operate in interstate commerce and transfers safety, insurance and cargo liability requirements from the ICC. Introduced Mar. 26, 1986; referred to Committee on Commerce, Science, and Transportation.

Stephen J Thompson
IB76019

URBAN AND REGIONAL DEVELOPMENT

MLC-097

COMMUNITY AND REGIONAL DEVELOPMENT - FY87 BUDGET AND OTHER LEGISLATIVE ISSUES

...funding issues...

The Reagan Administration's FY87 budget proposed to terminate a number of community and regional development programs: Community Development Block Grant Sec. 108 loan guarantees; Urban Development Action Grants (UDAG); Rehabilitation Loans (Sec. 312); Rental Rehabilitation Grants (RRG); Housing Development Grants (HoDAGs); Economic Development Administration (EDA) assistance programs; Appalachian Regional Commission (ARC) activities; and Farmers' Home Administration (FmHA) community development programs. The latter category includes water and waste disposal loans and grants, community facility grants, business and industrial development loans, and rural fire protection grants. In addition, the Administration budget recommends a significant reduction in funding for the Community Development Block Grant (CDBG) program. It would increase funding for the Neighborhood Reinvestment Corporation and freeze funding for the Sec. 810 (Urban Homesteading Program). The Administration's FY87 budget proposals for these selected community and regional development programs would total $2.703 billion, which is $1.997 billion (43%) below the amount appropriated in FY86.

In addition, the Administration had sought to rescind and defer $1.275 billion in FY86 appropriations for the programs identified above. The proposed cuts, terminations, rescissions, and deferrals of funds are designed to reduce the deficit and to reduce the Federal role in community and regional development activities. This is a goal of the Administration independent of budgetary considerations.

H.R. 4515, the FY86 urgent supplemental appropriations bill, which was signed by the President, in July 1986, as P.L. 99-349, included language rejecting the proposed deferral of FY86 CDBG and EDA funds. Further, the Congress, in the first concurrent budget resolution, S.Con.Res. 120, rejected the Administration's budget cutting proposls for CDBG and other community development programs for FY86 and FY87.

Though the budget resolution assumes reductions in funding levels, they are significantly less than those proposed by the President. The resolution assumes funding reductions of 10% below the FY86 level for the UDAG and EDA programs. In addition the resolution subjects all community and regional development programs to a 2.5% across the board reduction. S.Con.Res. 120 assumes a $4.521 billion aggregate appropriations level for the programs identified previously.

The House Appropriations Committee has reported several bills containing appropriation targets for these programs. In the aggregate the appropriations bills would provide a funding level of $4.947 billion, $426 million more than assumed under the budget resolution. House approved funding levels for these programs will have to be reconciled with appropriation levels to be approved by the Senate.

During the remainder of this session congressional activity will focus on resolving differences in House and Senate appropriations and authorization measures. The Congress will attempt to resolve issues related to extending and amending the NRC and commuity development programs of the Department of Housing and Urban Development, including amending the UDAG selection criteria and anti-pirating provisions; reauthorizing or terminating EDA and ARC programs; and terminating or extending and amending FmHA community development assistance programs.

These issues will be debated within the context of the Gramm-Rudman-Hollings Deficit Reduction Control Act, which requires Congress to reduce the deficit to $144 billion or less for FY87.

LEGISLATION

P.L. 99-349, H.R. 4515

Urgent Supplemental Appropriations Act for Fiscal Year 1986. Includes a provision denying the President's requested deferral of $500 million in FY86 CDBG appropriations. Reported to House May 8, 1986 (H.Rept. 99-510). Passed House May 8, 1986. Reported to Senate May 12, 1986 (S.Rept. 99-301). Passed Senate June 6, 1986. Conference report filed in House June 19, 1986 (H.Rept. 99-649). House agreed to conference report June 24, 1986. Senate agreed to conference report June 26, 1986. Signed into law July 2, 1986.

H.R. 1 (Gonzalez)

The Housing Act of 1985. Amends and extends certain laws relating to housing and community development and for other purposes. Introduced Jan. 1, 1985; referred to Committee on Banking, Finance, and Urban Affairs. Reported to House June 26, 1985 (H.Rept. 99-230). Passed House June 12, 1986. Received in Senate June 17, 1986.

H.R. 10 (Oberstar et al)

National Development Investment Act. Amends the Public Works and Economic Development Act of 1965, authorizing EDA assistance programs and the ARC Act of 1965. Introduced Jan. 3, 1985; referred to Committees on Banking, Finance, and Urban Affairs, and Public Works and Transportation. Reported to House by Committee on Public Works and Transportation May 15, 1985 (H.Rept. 99-115). Passed House Sept. 4, 1985.

H.R. 5161 (Smith, N.)

Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill. Makes appropriations for EDA activities and the ARC. Introduced Feb. 18, 1986; referred to Committee on Appropriations. Reported to House July 16, 1986 (H.Rept. 99-669). Passed House July 17, 1986.

H.R. 5177 (Whitten)

Makes appropriations for Agriculture, Rural Development, and Related Agencies for FY87 including funds for water and waste disposal loans and grants, community facilities grants, business and industrial development loans, and rural fire protection grants. Introduced Feb. 18, 1986; referred to Committee on Appropriations. Reported to House July 16, 1986 (H.Rept. 99-686). Passed House, amended, July 24, 1986 and referred to Senate Appropriations Committee July 28, 1986.

H.R. 5313 (Boland)

Department of Housing and Urban Development and Independent Agencies Appropriations Bill. Appropriates FY87 funds for housing and community development programs and for other purposes. Introduced Feb. 19, 1986; referred to Committee on Appropriations. Reported to House July 31, 1986 (H.Rept. 99-731).

S. 2507 (Garn)

Housing Act of 1986. Amends and extends housing and related programs including the NRC, CDBG, UDAG, Sec. 312, and Sec. 810 programs. Introduced May 29, 1986; referred to Committee on Banking, Finance, and Urban Affairs. Reported to Senate May 29, 1986 (S.Rept. 99-314).

S.Con.Res. 120 (Domenici)

First Concurrent Budget Resolution for Fiscal Year 1987. Makes nonbinding assumptions about funding levels for various programs by budget function including community and regional development. Introduced Mar. 24, 1986. Reported to Senate by Committee on the Budget Mar. 24, 1986

(S.Rept. 99-264). Passed Senate May 13, 1986. Agreed to in House May 15, 1986, after House substituted text of H.Con.Res. 337. Conference report filed and agreed to in House June 26, 1986 (H.Rept. 99-664). Agreed to in Senate June 27, 1986.

Sandra S. Osbourn and Eugene P. Boyd

MLC-098

ENTERPRISE ZONE AND ALTERNATIVE AREA REDEVELOPMENT LEGISLATION

...partially addressed in 99th Congress...

Enterprise zones have been partially addressed by the House in the 99th Congress. The House, in the process of considering the omnibus housing bill (H.R. 1) in early June, accepted with amendments an amendment offered by Representative Garcia that provides for the designation of 100 enterprise zones. The House passed H.R. 1 as amended on June 12, 1986. The Garcia amendment, as amended, provides for 100 zone designations, 33 or one-third of which must be in rural areas. Such designation is to last for 24 years, with a review after the first 4 years. The 100 zones are to be selected from areas nominated by State and local governments. To be eligible an urban area must be located in an Urban Development Action Grant (UDAG) "distressed area," have an unemployment rate of at least 1.5 times the national rate, have a poverty rate of at least 20%, have at least 70% of its households with incomes below 80% of the median income of households of the local government, and have had a population loss of at least 20% between 1970 and 1980. Rural areas must meet the poverty criterion as well as at least one other of the criteria listed above.

The Garcia amendment does not provide for any Federal tax breaks; however, State or local government must undertake at least four of the following six actions: reduce tax rates or fees applying within the zone; increase the level of efficiency of public services; reduce, remove, simplify, or streamline paperwork requirements; have public authorities or private entities become involved in the program (including commitment to provide jobs, job training, and technical, financial, or other assistance); give preference to minority contractors; or donate real estate to neighborhood organizations agreeing to operate a business on the land.

These actions may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949. Community Development Block Grant (CDBG) and Urban Development Action Grant programs under title I of the Housing and Community Development Act of 1974, as a matter of congressional policy, are not to be reduced as a result of enterprise zones.

LEGISLATION

H.R. 3232 (Garcia)

Enterprise Zone Development and Employment Act of 1985. Provides for the establishment of 100 zones over a 2-year period to stimulate the creation of new jobs, particularly for disadvantaged workers and the long-term unemployed. This bill provides for tax relief, regulatory relief, improved local services, and increased community involvement in economic development. To be eligible an area must be one of pervasive unemployment, poverty, and general distress. Thus, the area's unemployment rate must be 1-1/2 times the national rate; its rate of poverty must be at least 20%; 70% of its households must have incomes below 80% of the median household income; and its population must have decreased by at least 20% between 1970 and 1980. Preference is to be based on State and local commitment and past efforts.

Federal income tax incentives include an employer tax credit of 10% plus a special credit for hiring economically disadvantaged individuals; an employee tax credit of 5%; an investment tax credit of 10% for construction property; the elimination of capital gains tax for acquisition of EZ business property; a tax deduction of up to $100,000 for the purchase of enterprise stock; a 12-1/2 percentage point increase in the research credit; and several other tax incentives. Bill also provides for regulatory flexibility.

Introduced Sept. 4, 1985; referred jointly to the Committee on Ways and Means, on the Judiciary, and on Banking, Finance and Urban Affairs.

H.R. 4913 (Stangeland)

Farm Employment and Enterprise Zone Development Act of 1986. This bill "replaces" H.R. 4008. Provisions are very similar to those in H.R. 3232. Differences include changes in eligibility requirements to make them better suited to rural areas and a change in designator of zones from Secretary of Housing and Urban Development to Secretary of Agriculture. Introduced May 22, 1986; referred jointly to Committees on Ways and Means; the Judiciary; and Banking, Finance and Urban Affairs.

S. 2609 (Danforth)/H.R. 5189 (Coleman)

Rural Enterprise Zone Act of 1986. Provides for the establishment of up to 45 zones over a 3-year period (no more than 18 per year) to stimulate the creation of new jobs and economic opportunity for residents of economically distressed rural areas. Provides for tax relief, regulatory relief, and improved local services.

Zones would be outside of metropolitan areas in communities of between 1,000 and 50,000 population. The area must be one of pervasive poverty, unemployment, or distress and must meet one of the following criteria: (1) unemployment rate at least 1-1/2 times the national unemployment rate; (2) poverty rate of at least 20%; (3) at least 70% of households in area have an income below 80% of the median income of households within the jurisdiction of the local government; or (4) a 20% or more population decline between 1970 and 1980. Zone designation could last up to 15 years.

Provides three tax incentives: (1) a 10% tax credit on expenses for new employment; (2) deferral of capital gains tax if proceeds from sale of an asset are reinvested in the zone; and (3) tax-exempt industrial development bond financing for private firms. Also would give regulatory relief in the zones, but health, safety, and anti-discrimination, minimum wage, overtime, and environmental requirements cannot be waived.

Senate bill introduced June 26, 1986; referred to Committee on Finance. House bill introduced July 17, 1986; referred jointly to Committees on Ways and Means; the Judiciary; and Banking, Finance and Urban Affairs.

Dennis Roth
IB85135

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